The Role of Provincial and Territorial Authorities in the Provision of Child Protection Services

Child Welfare in Canada 2000

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PREFACE

This report is an expanded update of the 1994 edition of *Child Welfare in Canada*. It was prepared by the Federal/Provincial/Territorial Working Group on Child and Family Services Information. The report was developed under the direction of the provincial/territorial Directors of Child Welfare, whose assistance is greatly appreciated. For further information on the jurisdictional chapters, please contact the department within the province or territory in question.

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INTRODUCTION

Purpose and Scope

Provincial and territorial jurisdictions have the legislative responsibility for child and family services (child welfare). One exception is the federal responsibility for Aboriginal peoples with status under the *Indian Act* (Canada). Each province and territory has specific legislation providing protection for neglected and abused children. *Child Welfare in Canada 2000* outlines the roles and responsibilities of provincial and territorial child welfare authorities in the provision of child protection and preventive/support services. The report also describes the organizational structures, as well as the tools, resources and policies that are used by child welfare authorities to carry out the responsibilities they assume under provincial and territorial[1] legislation.

This report, which reflects each jurisdiction's provisions, policies and programs as of September 1, 2000, is based on existing policy and legislation, supplemented by information provided by each jurisdiction. It should be noted that actual practice may vary from the principles stated in legislation and policy. The report is an information document only; no analysis of the material is provided.

Child Welfare in Canada 2000 consists of this introductory chapter, followed by chapters defining the unique aspects of child welfare practice in each jurisdiction. The Introduction provides a general overview of the common elements of jurisdictions' systems including: the philosophy and goals of child and family services legislation; the service delivery systems; and a summary of the case management process starting from receipt of a report of suspected or alleged child abuse or neglect through to case closure. Each jurisdictional chapter presents specifics with respect to administration and service delivery, legislative and working definitions, mandatory reporting provisions, investigation of reports, child abuse/neglect protocols, First Nations services, voluntary agreements and court-ordered protection, descriptions of child abuse registers, and statistical charts.

For the purposes of this report, the term "child and family services" will be used interchangeably with "child welfare" and "child protective services". Child and family services reflects the scope of involvement by authorities and a more holistic approach to assisting children in need of protection from abuse and neglect as well as their families.

Although many child and family service protection cases involve aspects that warrant a parallel criminal investigation, criminal proceedings against perpetrators of abuse and neglect are not described in this report. Criminal proceedings are prosecuted under the *Criminal Code of Canada*.

Limitations

While a common framework was used to structure and provide consistency to topics covered in the jurisdictional chapters, it was not possible to use standard definitions or terminology. Although some generalizations are presented in this introductory chapter, each jurisdiction has its own legislation, definitions, policies and services; these specific approaches are described in the subsequent chapters. Although the actual processes vary among jurisdictions, the summary contained in the overview section attempts to reflect a common overall process of response to the reporting of child abuse and neglect.

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[1] Throughout this chapter the term "provincial" or "province" also refers to Canada's territories.

For several reasons, it was not possible to identify common statistical data on child abuse and neglect that would permit the generation of national estimates. The definitions of abuse and neglect differ among jurisdictions. Statistical data used in this report are extracted from data systems developed to meet the administrative and case management needs of each jurisdiction; as such, there are extensive variations in the types of data collected and the manner in which they are reported. The legal status of a child in care varies between most jurisdictions. In one jurisdiction a case may represent a family unit, and in another, the individual child within a family. The periodicity of the data varies from monthly to annual: the data reported may include all activity during a particular month, snapshot data (as at the end of a month), or cumulative data during the year (calendar or fiscal). Because of the many data inconsistencies, readers are advised to consult the footnotes that accompany each jurisdiction's data charts.

Quebec is the only province in the country that is not governed by common law (the *Criminal Code of Canada*) in matters relating to family law. Thus, the family law in the Province of Quebec is very different from that of the rest of Canada. The *Quebec Civil Code*, which was completely revamped in 1994, is used in combination with the *Youth Protection Act* as the legislative basis for responding to child maltreatment.

As a result of the limitations mentioned above, data from the statistical charts for a given province or territory cannot and should not be compared with data from other jurisdictions.

Overview of Child and Family Services in Canada

Although the goals and philosophies of child and family services legislation vary across jurisdictions, they generally reflect the notion that families are the basic units of society and should be supported and preserved. Families are responsible for the care, nurturing, supervision and protection of their children. However, legislation also recognizes that children have certain basic rights, including the right to be protected from abuse and neglect, and that governments have the responsibility to protect children from harm. Child and family services authorities across Canada carry out this role of protecting children.

Child and family services authorities investigate allegations or suspicions of child abuse or neglect using a variety of approaches according to the legislation, policy and protocols in their jurisdiction. Depending on the outcome of the investigation, and where appropriate, these authorities provide protective and preventive services ranging from counselling and support to removing the child from the home on an immediate basis (apprehending) to ensure his or her safety and well-being. If a family is unable to adequately protect a child despite the provision of support services, the authorities may temporarily or permanently assume responsibility for the child; this generally involves court action and is referred to as "taking a child into care". All jurisdictions recognize that the best interests of the child must be a primary consideration in the delivery of child and family services and that the least intrusive form of intervention is preferred.

The scope of services and the range of preventive or protective interventions that are available to children and families vary between jurisdictions. Preventive services may be provided by child welfare authorities with the agreement and co-operation of the family to help resolve difficulties that may lead to abuse or neglect. Where a child is deemed to be in need of protection, authorities may offer services under voluntary agreement with the parent or guardian. Where a child is considered to be in imminent danger, child welfare authorities may apprehend the child. Where a child has been apprehended, or a voluntary agreement is not feasible or appropriate, a child protection hearing is scheduled in the appropriate court of law. The court determines whether the child is in need of protection, and may issue an order concerning the care, custody and/or guardianship of the child.

Provincial child and family services departments set standards and requirements for organizations that provide treatment and residential services, foster care, adoption services, prevention and survivor counselling, parenting skills training, etc. The departments also oversee and monitor these support services in conjunction with their core mandate of providing preventive and intervention services to neglected and abused children.

General Administration

The design and delivery of child and family services is the responsibility of the department of social services, or its equivalent, in each province and territory. The departments are situated within the provincial ministry that deals with social services or health, or in some jurisdictions, children and families. Each department has one or more central child and family services divisions or sections that develop policies and programs, oversee operations and coordinate services across the province.

Most jurisdictions have a network of regional, area and/or district offices responsible for the delivery of child protection services. These agencies or authorities may operate as departmental offices or as non-profit community-based agencies that are funded and overseen by the department. Some jurisdictions deliver child protection services through their own departmental system, community agencies, or a combination of both. For example, in Ontario, Children's Aid Societies (private non-profit agencies) are contracted to deliver services, whereas in Nova Scotia and Manitoba, services are delivered by a combination of mandated non-government agencies and government offices. In addition, many First Nations in most jurisdictions have established First Nations child and family services agencies that provide the full range of services mandated under provincial legislation. In some instances, other Aboriginal organizations provide partially mandated services in conjunction with departmental authorities.

The decentralization of child welfare services, combined with efforts to engage the community in service provision, has led some jurisdictions to establish community-based, non-profit agencies as the primary delivery mode for child welfare and adoption services. These agencies operate under boards of directors according to the administrative statutes and regulations in provincial legislation that pertain to child welfare, public administration or adoption.

All jurisdictions make use of various non-governmental or community-based services for prevention and protection. Because of the diversity of services required by children in need of protection and their families, services associated with other provincial government departments such as Health, Justice and Education are often utilized, generally according to protocols or interdepartmental agreements.

Most jurisdictions have informal, community-based child abuse teams or committees. These are often composed of professionals from the health, education, legal and social service fields. The roles of these teams range from public education and advocacy to the development of protocols and professional advice on individual protection cases.

The statutory powers and authority that are established by each jurisdiction's legislation are assumed by the Director (usually appointed by the Minister) and delegated down the hierarchical structure of the department to front-line workers. Thus, when the term 'Director' is used in the text of the legislation, it is most often understood to also mean persons delegated by the Director or the Minister to perform the duties specified in the legislation.

First Nations

Traditionally, Canada's First Nations peoples have nurtured and cared for their children in accordance with cultural systems that value interdependence, extended community responsibility for children and holistic approaches to child development. In the ancestral Aboriginal societies, children were so highly valued that Elders, not young adults, were mainly responsible for guiding and educating children. All community members had the responsibility to ensure the safety and well being of children, and parents were not necessarily the sole source of protection and guidance.

The European colonization of Canada had a lasting effect on the welfare of generations of Aboriginal children and the stability of their families and communities. The ability of First Nations communities to collectively nurture and provide care to their children eroded as the European assimilation of Aboriginals progressed.

Under the *British North America Act* and later the *Constitution Act*, jurisdiction for child and family services has always rested with the provinces. Although the *Constitution Act* provided Canada with the authority to enact legislation on behalf of First Nations peoples in areas such as child and family services, Canada has never done so.

Until the 1950s, child welfare interventions with First Nations families living on reserve were executed by the government of Canada and others in the absence of legal authority. At that time, the Indian Agent intervened on an emergency basis if a child on reserve was abandoned or abused, but without a legal basis for the action. In most cases, the response to suspected abuse of an Aboriginal child was to send the child to a residential school. From the 1950s on, provincial authorities became more involved in child welfare matters on reserve, still without a clear delineation of authority between the two levels of government. Provincial child welfare workers' involvement with Aboriginal children and their families during this period often resulted in off-reserve, non-Aboriginal foster placements and adoptions of First Nations children.

Aboriginal communities soon began to identify the incompatibility between their cultural and family traditions and the prevailing child protection approaches and so advocated for restoration of First Nations responsibility for their children. In 1981, the Kimmelman report from Manitoba addressed the issue of jurisdiction and responsibility for First Nations child welfare, resulting in the first agreement between an Indian Band, the province and the government of Canada. Aboriginal child welfare services then entered a second phase of evolution whereby the capacity to deliver child welfare services was developed by the First Nations communities in partnership with the provinces and the federal government.

During the 1980s many different types of agreements were signed involving First Nations Bands, the Department of Indian and Northern Affairs (DIAND), and provinces to establish First Nations Child and Family Service (FNCFS) agencies in Canada. The agreements were not standardized and did not always involve all three parties. In 1986, DIAND implemented a three-year moratorium on the creation of new FNCFS agencies while the issue of child welfare service provision on reserve was studied. This resulted in a 1991 Federal directive (Directive 20-1) that charted the development process, funding formulas and operational structure of all new FNCFS agencies. Under these agreements, provinces delegated authority to the FNCFS agencies to provide child protective services according to the legislation unique to that province. In 1999 DIAND undertook a National Policy Review of Directive 20-1.

Aboriginal self-government is now emerging as the context for a third option for establishing authority to provide child and family services by and for Aboriginal peoples. Provincial governments may recognize a self-governing Aboriginal group's legislation and social service delivery system as having governance and authority over child welfare matters pertaining to First Nations and/or individuals who identify as Aboriginals. For example, some First Nations have negotiated self-government agreements with the province and the government of Canada that would permit them to assume governance in many areas. These areas may include the power to legislate and deliver child welfare services that are culturally appropriate and compatible with existing provincial legislation.

All of the First Nation agencies and their services discussed in this report operate under the authority and governance of provincial legislation for children and families related to child protection services and adoption. Some FNCFS agencies are delegated by the provincial authority to provide a full range of services, including protection services. Other Aboriginal agencies are partially delegated to provide support services such as foster care, preventive services and voluntary services.

Children's Advocate or Ombudsman

Despite differences in the names, mandates and powers of the advocates, ombudsmen and commissions currently involved with child and family services in Canada, they share four common functions:

- to inform young people about their rights and assist them in advocating for their own interests;
- to help resolve concerns about government services provided for children and youth and, when necessary, formally investigate complaints;
- to report findings and make recommendations; and
- to conduct research and public education[2].

Children's advocates respond to concerns from children and families receiving child welfare services in the following provinces: British Columbia, Alberta, Saskatchewan, Manitoba and Ontario. In Quebec, the Commission des droits de la personne et des droits de la jeunesse (Commission of the Rights of the Person and Rights of Youth) is an independent agency that reports to the National Assembly of Quebec and monitors the rights of all children, including rights recognized by the *Youth Protection Act* and the *Young Offenders Act*.

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[2] Law Commission of Canada: Restoring Dignity – Responding to Child Abuse in Canadian Institutions, PWGSC, 2000.

The accountability, roles, powers to investigate and scope of each office of the children's advocate vary significantly between jurisdictions and are described in the relevant jurisdictional chapters.

Jurisdictions may also have an office of the ombudsman with a wider mandate to receive concerns from the public in regard to government services. In jurisdictions without a children's advocate, this office may also respond to concerns regarding child and family services.

Child Abuse Protocols

Protocols are essentially agreements between collaborators that define and direct action on a common issue. In the child welfare field, there are different types of protocols that address reporting and investigation of abuse; the scope of the protocols range from those existing within departments to multi-sectoral and multidisciplinary agreements. Child abuse protocols are developed between key organizations to guide their collaboration when responding to allegations of child maltreatment. This is because several organizations are often involved in a coordinated response to a report or investigation. Protocols operate at several levels: internally within organizations; at the local level, where agencies are often required to formulate the agreements with community collaborators; or on a regional or provincial scale, involving different authorities and/or government departments. The purpose of all protocols is to clearly define the responsibilities of each collaborator, minimize trauma to child victims of abuse, coordinate responses, and inform officials on the implications of statutes and policies external to their mandate.

Protocols that address the reporting of child abuse most often involve organizations that interact with children in some professional capacity and may include schools, day care centres, hospitals, police, and women's shelters, among others. Protocols that direct the process of investigations of reports of child abuse or neglect may involve the child welfare agency, police physicians, schools, and coroners. Responses to exceptional situations, e.g., death of a child in care or an accusation of abuse against a child welfare service provider, may also be addressed through protocols.

Protocols often serve to define terminology and clarify legal obligations, accountability, and practice standards that relate to each of the collaborators in a concise and logical procedural format. Some protocols are designed to be reviewed regularly and thus serve to bring the signatories together to assess the effectiveness of their collaboration. Many of these different types of protocols are referenced throughout the jurisdictional sections of this report.

Definition of Abuse and Neglect

The terms and definitions that define child maltreatment in provincial legislation set the parameters for protective intervention; inform authorities, judges and the public as to the meaning of child maltreatment; and set the standard for acceptable care of children. Each jurisdiction has its own distinct and detailed set of terms and definitions for child maltreatment contained in child welfare legislation. For this reason, *Child Welfare in Canada 2000* includes the terms used and the definitions of maltreatment established in all jurisdictions' legislation, plus any working definitions used by child welfare practitioners.

Child abuse (physical, sexual or emotional) is considered to be grounds for finding a child to be in need of protection in all jurisdictions except New Brunswick. New Brunswick specifies abuse as grounds to conclude that a child's security and development is in danger. The term "abuse" is defined by statute in Manitoba, Ontario, PEI, Nunavut and NWT; these statutory definitions differ in specificity and detail. In jurisdictions that have no explicit definition of the term abuse in their statutes, the definition of "child in need of protection" encompasses child abuse and constitutes grounds for protective intervention.

Defining neglect is a problematic issue for child welfare authorities. It is most often addressed as "abuse by omission" in the jurisdictional statutes and policies that shape the concept of neglect and the required response by authorities. Although academics and child welfare practitioners recognize that child abuse and child neglect are distinct forms of maltreatment, operational definitions of neglect suffer from a lack of clarity.

Mandatory Reporting and Investigation

In most Canadian jurisdictions, child protection legislation requires that suspected abuse of children be reported to child protection authorities. In Newfoundland and Labrador, Prince Edward Island, Saskatchewan, Nunavut and the Northwest Territories, reports can also be made to the police, who are in turn required to report the allegation to child welfare authorities. In the Yukon, cases may be reported but it is not a statutory requirement to do so. There is significant variation among the provincial laws; however, the common intent is to encourage the reporting of suspicions of child abuse and neglect by establishing the requirement in law, apply sanctions for not reporting, and protect the reporter's identity. The range and level of suspicion of abuse or neglect that requires reporting, and the different standards applied to professionals and non-professionals vary between jurisdictions, as do the penalties for not reporting.

Every jurisdiction in Canada grants immunity from civil action against individuals who report suspicions of child abuse or neglect in good faith. The legal provisions vary somewhat between jurisdictions but the intent to encourage reporting of suspicions made without malice and with reasonable cause is common to all provinces.

The wide range of institutions, agencies and service providers involved with children are often the first points of contact when the suspicion of abuse or neglect arises. Child welfare systems recognize the importance of awareness training for staff and volunteers working in these services and institutions in order for them to meet their statutory obligation to report a suspicion of child abuse. Hospitals, schools, day care programs, police departments, and other organizations engage child and family services staff for training in the recognition of child abuse and neglect, and developing reporting protocols that encourage accurate and timely reporting of suspected child abuse or neglect.

When reports of child abuse or neglect are received by a child welfare authority or by police, both parties follow investigation protocols based on child welfare legislation and police investigation procedures for that jurisdiction. Reports are screened by child welfare authorities, often using an assessment tool, to determine if an investigation is required.

When an allegation or suspicion of child abuse or neglect is reported to child protection authorities, as much information as possible about the situation is gathered during this initial contact in order to respond appropriately. Workers search a confidential, limited-access database of open, recently closed or investigated child abuse cases for previous involvement with child welfare authorities within the jurisdiction. Authorities use a number of screening procedures that establish thresholds for the level and immediacy of the response, ranging from an immediate investigation to follow-up or a referral to community supports. Some of these screening tools are integrated with the risk assessment instrument used by the jurisdiction (see following section). Reports of abuse or neglect of children over the age of majority in each jurisdiction are investigated by child welfare authorities only if there are siblings under the age of majority who may be at risk in the family.

Depending on the differing statutory definitions of a child in need of protection, each jurisdiction may or may not investigate an allegation that involves an alleged perpetrator who is not a family member. The decision to investigate is influenced by consideration of the access of the accused "third party" to other children, or to the level of care accorded to the third party by an alleged victim's parent. If the child welfare authority does not act upon the report, the informant is advised to contact the police to report the situation as a potential criminal offense. In some jurisdictions, family support services may be provided to the families and victims of third party abuse by the department or by other community-based services.

Physical and sexual abuse of children is an offence under the *Criminal Code of Canada*, which addresses the prosecution of the perpetrator, while the provincial laws focus on the protection of children from harm. In many cases, the joint investigation approach taken by police and child welfare officials minimizes the number of times a child is interviewed, coordinates the involvement of both parties and reduces interference or corruption of either party's case against the alleged perpetrator of abuse. The use of children's videotaped accounts of abuse or neglect during an investigative interview is accepted as evidence in both criminal and protection hearings. Most jurisdictions employ investigation protocols to achieve a high level of collaboration between local police and child welfare authorities, and many protocols involve hospitals or medical experts in coordinated investigations of abuse. Police decide whether to lay charges under the *Criminal Code* at some point during or after the joint investigative process. The child welfare authority applies the definition of "child in need of protection" to the situation to guide the ensuing child protection process.

Other protocols and procedures apply to investigating allegations of abuse in foster homes or other child-caring facilities; these are addressed in the jurisdictional chapters.

Risk and Safety Assessments

Child protection services in many provinces employ risk assessment processes as part of a case management approach to child protection. All of the different risk assessment and management models currently in use by jurisdictions provide a systematic framework for gathering information about a child and his or her social and physical environment in order to assess the future likelihood of harm. Risk assessment models are intended to enhance case management by promoting a consistent, structured approach to decision making, focusing resources on children who are most at risk, and directing interventions to reduce risk factors. These tools generally create stronger links between the intent of the legislation and child maltreatment intervention at the individual practice level.

Safety assessments are tools used by intake workers at the reporting/intake phase to measure the immediate risk to a child in order to inform decisions on whether to investigate, whether to apprehend a child, and to structure the timing of child abuse investigations. Safety assessments are also used when there is a change in the circumstances of an open case.

Seven jurisdictions in Canada currently have risk assessment models for child protection (Quebec provides three optional tools to child protection staff). Some risk assessment models use more than one assessment tool to assist front line protection workers. Some assessment tools are adaptations of instruments used in other sites in North America, while others have been specifically developed to be compatible with the legislation and the child welfare service delivery system in the particular province. Table 1a indicates which jurisdictions are currently using a risk assessment model, and provides the origin of the tools used.

Table 1a
Safety and Risk Assessment Tools and Origin, September 2000

Jurisdiction	Assessment Tool	Source/Origin of Tool
Newfoundland and Labrador	• New York Risk Assessment Model	Adapted from New York State Social Services model
Nova Scotia	• Initial Safety Assessment	Institute For the Prevention of Child Abuse
	• Risk of Future Harm	Washington State Child Protection Services
	• Parental Capacity	Toronto Parental CapacityAssessment Project
New Brunswick	• Safety Assessment	Adapted from New York State Social Services model
	• New York Risk Assessment Model	Adapted from New York State Social Services model
Quebec	• Illinois Safety Assessment	Adapted from Illinois State Social Services Model
	• Child Welfare Well-Being Scales	Child Welfare League of America
	• New York Risk Assessment Model	Adapted from New York State Social Services model
Ontario	• Eligibility Spectrum	Ontario Association of Children's Aid Societies
	• Child Welfare Well-Being Scales	Child Welfare League of America
	• Ontario Risk Assessment Model 2000	Ontario Association of Children's Aid Societies
Manitoba	• Manitoba Risk Estimation System (not in use)	University of Manitoba
Saskatchewan	• New York Risk Assessment Model Services model	Adapted from New York State Social
British Columbia	• British Columbia Risk Assessment Model	British Columbia Ministry For Children and Families

Family Support and Child Protection Services

Support services may be provided as a preventive measure to families and children considered to be at risk or potential risk; they may also be provided under the terms of a voluntary agreement or where a court order has found a child to be in need of protection. The intention of support services is to strengthen the family and resolve problems to enable the child to either remain in the natural home or return home from a temporary placement. Services may also be provided to families where members have special needs, creating conditions that could lead to maltreatment or neglect of children. Support services may be provided at the request of the family, on the recommendation of a social worker, or by order of the court. Although non-court-ordered support services are provided on a relatively informal basis, formalized agreements (i.e., recognized by the court) are used in Quebec, Manitoba, Saskatchewan and Alberta.

The range of support services available to families includes parenting skills training, counselling, respite care, day care, homemakers, life skills training, drug and alcohol treatment or rehabilitation programs, and specialized treatment programs for child victims and/or perpetrators of abuse. The nature and extent of the services vary across jurisdictions, with most services developed and delivered at the community level. Most departments of social services purchase treatment services for child abuse victims from non-governmental or community organizations, agencies and private practitioners. Some child and family services authorities operate or fund programs geared exclusively towards victims of child abuse and/or their families. Examples include foster parents helping biological parents, treatment programs for sexual abuse survivors and their families, and individual assessment and counselling services. Health authorities also play an important role in delivering mental health services to victims of abuse and neglect. In addition, churches, hospitals and schools may offer services to victims of abuse. Transition homes and safe houses also provide short-term accommodation and support to victims of family violence, including child abuse.

Most provincial justice departments fund victim assistance programs when criminal charges have been laid. These programs, which are usually offered through the police or community agencies, provide services ranging from referrals and support services to witness preparation and support to child abuse victims who are required to testify in criminal court.

Some jurisdictions have created, or are in the process of creating, preventive or diversionary programs for high-risk youth. This group includes youth under the age of majority who are at risk of substance abuse, criminal activity, workforce detachment, sexual exploitation or are experiencing unwanted pregnancy. Outreach programs, revised child welfare legislation, safe houses and peer support are some of the strategies being put in place for youth who are sexually exploited.

Voluntary Services

The parents of children who are believed to be in need of protective services can enter into voluntary agreements for support services with child welfare authorities in all jurisdictions. There are several options for voluntary services if, following the investigation of a report of alleged or suspected abuse or neglect, it is believed that a child is in need of protection. Provision of services based on the voluntary agreement of the parent (without going to court) is the least intrusive and preferred option and generally includes family supports or temporary placement services. Family support services can be delivered by agency workers, contracted professionals or community-based social services agencies. The risk of harm to a child may be further reduced if an alleged abuser voluntarily agrees to leave the child's home and engage in counselling or rehabilitation.

Apprehension and Court Hearing

When child welfare authorities confirm the need for protection following an investigation, or when circumstances change in an open case, a child may be taken into the care of the child welfare authority by means of a warrant or a court order to remove the child from the home. An application for a warrant or court order to search for and remove (apprehend) a child from the home is made to the court or a justice of the peace, depending on the jurisdiction.

In situations where a child is believed to be at immediate risk of harm, the worker (or police officer with statutory authority) may remove the child immediately without a warrant or court order, when and if delays may further endanger the child. In these instances, a court appearance takes place within a prescribed period of time to justify the action and to determine whether the child is in need of protection.

A judge hearing a protection case may also consider an application from the child welfare authority for a custody order for a child found to be in need of protection. A court order for a child's protection can range from returning the child to the parents or guardians under the supervision of a child welfare authority, to temporary or permanent custody by the authority. Each jurisdiction has its own rules and limitations on orders; these are defined in detail in the following chapters.

Court Orders

If, as a result of the protection hearing, the judge finds that a child is in need of protection and a voluntary agreement is not possible, he or she will consider the child's best interests before making an order. Where possible, the judge will attempt to keep the family intact.

The three most common child protection orders are:

1) an order for supervision of the child in the home by the child and family services authority (the child remains or is returned home, or is returned to the person who had custody prior to the apprehension);
2) an order for the child to be brought into the temporary care of the child and family services authority; and
3) an order for the child to be brought into the permanent care of the authority.

Orders that prevent a specific person from having access to a child in need of protection may be made under child protection legislation in Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia. If a criminal charge has been laid under the *Criminal Code of Canada*, a "no contact order" as a condition of bail is another means of preventing access to a child.

Under a supervision order, the parent generally retains custody and guardianship of the child and the situation is monitored by the child welfare authority. Under a temporary order, the parent loses custody of the child for the duration of the order; some jurisdictions allow parents to retain guardianship under a temporary order. When a child is brought into permanent care through an order of the court, the parent loses all custody and guardianship rights, allowing the Director or Minister to make all decisions on behalf of the child, including authorizing adoption. The court may attach a variety of terms to any protection order; these may include mandatory provision of support services to the family and, where appropriate, the type and frequency of contact between the child and family. Child and family services authorities must prepare a service or case plan for each child in care outlining the services required and the placement objectives. The long-term goal for a child under a permanent order, particularly for a younger child, is usually adoption; other alternatives, such as preparation for independence may be more appropriate for an older child.

All jurisdictions have appeal processes with respect to child protection orders. Usually the parties to the protection hearing have the right to appeal an order within a prescribed time limit.

Criminal Court Proceedings

When an investigation of child abuse is complete, joint investigative efforts involving child welfare authorities and police follow separate courses according to the respective governing legislation, and depending on the outcome of the investigation. The justice system applies the *Criminal Code of Canada* to the case by prosecuting an alleged offender while provincial child welfare legislation is applied to protect the child and/or strengthen the family[3].

In criminal court, various techniques for lessening the stress on a child witness may be employed. In sexual abuse cases, a video of the child's testimony (the contents of which have to be verified by the child in court) or a screen to block the child from the alleged abuser during questioning may be used if the judge or justice is of the opinion that these steps are necessary to obtain a full and candid account by the victim. Courtrooms also use closed circuit television as a means to obtain a full and candid testimony from a child during criminal proceedings. Some jurisdictions have designed special courtrooms and processes that can alleviate the stress and re-traumatization of child abuse victims when they are required to appear at a criminal or protection hearing.

Placement of a Child

Children who are in the temporary or permanent care of child and family service authorities are placed in care environments that match their needs as closely as possible. It is recognized that all children who are placed outside of their families must be supported while experiencing the anxiety and stress of separation from the family. Other factors influencing the type of placement include the level of care needed by the child, the continuation of cultural or faith traditions, the level of involvement of the biological family and the preferences of the child in care.

Placements that are available to children in care range from short-term emergency care through to extended independent living for youth. Foster care resources are used by child welfare authorities to provide a caring, temporary family environment. Many foster care programs are designed to offer graduated levels of caregiver skill and intervention ranging from a typical family context to specialized and supported therapeutic foster care. If available, an extended family member or other significant person may provide care for a particular child; this arrangement is known as kinship or restricted foster care. The maximum duration of foster placements is linked to the type of orders or agreements that transfer the care of a child from the parent to the foster caregiver. Most jurisdictions have time limits on the duration of temporary orders and out-of-home support agreements.

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[3] Several jurisdictions have provisions in their child protection legislation for an alleged offender to be charged with child abuse as a provincial offence if a criminal trial has not resulted in a conviction or is unlikely to do so.

Group homes, children's mental health facilities, supported independent living, and other placement options are available to children who need specialized therapeutic or long-term placements. These programs vary between jurisdictions and are addressed in the following chapters.

Provinces define the eligibility age limit for protection services in their child welfare legislation. This age limit is not necessarily the same as the age of majority for the province, or the age limit for access to support services. Most provinces have legislation or policy in place to continue or extend services for children who reach the age of majority or the age of eligibility for protective services. These extended services are typically available to young adults who are attending school or are disabled, and who were in care or entered into a support agreement with a child welfare authority prior to reaching the age of majority. Table 1b contains the age limit for protective intervention, the age of majority for each jurisdiction, and the extension of service provisions that define eligibility requirements.

Adoption

Child and family services authorities are vested with the statutory authority to manage or oversee the process of adoption of children in permanent care under the jurisdiction's child welfare or adoption legislation. Many jurisdictions authorize licensed private adoption agencies to operate under legislation; these deal mostly with private and international adoptions. All adoptions of children must be finalized by a provincial court through an adoption order.

Adoptions of children in the permanent care of a child and family services authority are handled internally by departments in an effort to secure permanent families for children in care and avoid successive foster placements. Child and family services authorities are now beginning to offer supported adoption plans where financial or support services are provided to adoptive families, thus encouraging the adoption of children with special needs, sibling groups or older children.

Child welfare systems have recognized the negative impact of successive foster placements on children who are in care or who alternate between the family of origin and numerous foster placements. Permanency planning requires involvement at all levels of the child welfare system and has been a central issue in legislative reform and service delivery design since the mid-1980s. Researchers and analysts had refined the definition of permanency planning during this period in order to guide reforms. The following operational definition encompasses many of the components of this approach:

"Permanency planning is the systematic process of carrying out, within a brief, time-limited period, a set of goal-directed activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers and the opportunity to establish life-time relationships"[4].

Many departments also provide post-adoptive services for adoptees and biological parents or relatives who wish to re-establish contact following a departmental adoption. Open adoptions are now an option in some jurisdictions. These arrangements are made with the consent of all the parties and allow for various levels of contact between adoptive parents, biological parents and the adopted child.

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[4] Maluccio, Fein, Olmstead, 1986.

Table 1b

Age of Majority and Age of Child as Defined in Child Protection Legislation

Province or Territory	Age of Majority	Age for Protection	Extension Provisions
Newfoundland and Labrador	19	under 16	• wardship to age 19 (subsequent to Order of Temporary Wardship, Order of Permanent Wardship) • services to age 21 (under an agreement or following extension of wardship to age 19)
Prince Edward Island	18	under 18	• services to age 21 (subsequent to Permanent Guardianship Order)
Nova Scotia	19	under 16	• wardship to age 21 (subsequent to Permanent Care Order)
New Brunswick	19	under 19[1]	• post Guardianship Service Agreements[2] may be signed under certain circumstances for those aged 19 to 23 (inclusive)
Quebec	18	under 18	• foster care may be extended to age 21
Ontario	18	under 16[3]	• wardship to age 18 (subsequent to Society Wardship Order – temporary; Crown Wardship Order – permanent) • services to age 21 (former Crown wards)
Manitoba	18	under 18	• services to age 21 (subsequent to Permanent Guardianship Order or Voluntary Surrender of Guardianship)
Saskatchewan	18	under 16[3,4]	• wardship to age 18 (Permanent, Long-Term Orders) • Temporary Orders to age 16 • Voluntary committals to age 16 • Voluntary agreements for 16-17-year-olds • services to age 21 (subsequent to Permanent Committal Order, Long-Term Order to Age 18)
Alberta	18	under 18	• Care and Maintenance Agreement[2] services to age 20 (subsequent to Temporary or Permanent Guardianship Order, Support or Custody Agreements entered into with the child)
British Columbia	19	under 19	• Post Majority Services Program[2] • support and/or maintenance to age 21 for current and former permanent wards (Permanent Order)
Yukon	19	under 18	• wardship to age 19 (Order for Temporary Care and Custody, Order for Permanent Care and Custody)
Northwest Territories & Nunavut	19	under 18	• wardship to age 19 (subsequent to Permanent Guardianship Order)

1. Regulations stipulate mandatory provision of child protection services applies only to a child under age 16 (under 19 for a disabled person). Mandatory reporting of a child in need of protection applies only to children under 16; reporting of cases involving children aged 16 to 19 must be done with the child's consent.
2. Formal agreement signed by the youth and department.
3. Youth 16 and 17 years of age can enter into an agreement for services until age 18.
4. In Saskatchewan, a 16 or 17-year-old may be apprehended in extraordinary circumstances.

National Programs

Kids Help Phone

The Kids Help Phone is a national, bilingual, confidential help line for children and adolescents. It is funded by the Canadian Children's Foundation and provides services 24 hours a day, 7 days a week. Counsellors respond to calls and make referrals to other agencies in the caller's vicinity. In 1999, 14% of approximately 289,000 calls (nationwide) were related to abuse. Callers who report abuse or neglect are asked by Kids Help Phone workers to identify themselves, and/or are advised to report the abuse to authorities; callers may also be referred to local supports.

The Kid's Help Phone agency estimates that approximately 30% of callers are "children at risk". This includes children experiencing violence, either at home or in their communities; struggling with alcohol and/or drug abuse; and/or dealing with issues related to suicide. It is the policy of Kids Help Phone to secure, whenever possible and with the consent of the caller, identifying information so that an immediate referral can be made to a local resource, such as ambulance, police, a child welfare agency, or an emergency mental health service. It is the policy of Kid's Help Phone to remain with the "at risk" caller until appropriate service arrives. For all situations of abuse or imminent danger for which Kids Help Phone receives information that identifies the caller, a report to the appropriate child welfare or other authority is made immediately. The toll-free number for the Kids Help Phone is: 1-800-668-6868. Their web address is: **http://kidshelp.sympatico.ca**

National Youth In Care Network

The National Youth In Care Network (NYICN) is a non-profit, charitable organization run by and for young people, aged 14 to 24, who are, or have been, in the care of child welfare authorities across Canada. The NYICN was founded in 1986 by a group of young people dedicated to the idea of youth empowerment. The NYICN assists local youth in care groups to develop programs and capacity to support children in care by providing them with information and contacts, support, and encouragement. At the time of printing, there are over 70 local youth in care organizations across Canada.

The objectives of the NYICN are to facilitate an empowering, constructive dialogue between young people in care and adult service providers in which youth are taken seriously and treated with respect, dignity, and sensitivity. Network members work with local child- and youth-serving agencies with the objective of bringing a youth perspective to discussions on what works and what doesn't work in terms of caring for and supporting children and youth.

The NYICN publishes articles for and about local groups in its newsletter, *The Networker*. It includes provincial network updates, a national update, articles on various topics, poetry, artwork, and short stories. The Networker is available online at the NYICN Web site: **www.youthincare.ca** The national office can be reached at: (613) 230-8945 or 1-800-790-7074 (youth only).

1 NEWFOUNDLAND AND LABRADOR

Administration and Service Delivery

Administration

In Newfoundland and Labrador, the *Child, Youth and Family Services Act (CYFSA)* is the legislative framework that authorizes the Children's Services Division of the Department of Health and Community Services to provide services to children, youth, and their families. The Provincial Director establishes policy, procedures, standards, and represents the province. The Department also delivers services to children according to the *Adoption of Children Act*.

Child and family services in Newfoundland and Labrador operate under the Model for Co-ordination of Services for Children and Youth. The departments of Justice, Education, Health and Community Services, and Human Resources and Employment work together on joint service planning.

Service Delivery Network

Protective Intervention services are delivered through four Health and Community Services Boards (RHCS) and two Integrated Health Boards (IHB) that deliver programs and services throughout the province. The Boards appoint a Director in Region for Child, Youth, and Family Services. The Directors in Region further delegate their responsibilities and authority under Part IV of the *CYFSA* (Protective Intervention) to social workers and their supervisors in each office overseen by a RHCS or IHB.

Each RHCS or IHB is governed by a Board of Directors that is also delegated with authority under Part IV of the *CYFSA*. The Boards are established according to the *Health and Community Services Act* and its regulations. Directors in Region report to their respective Board of Directors, and clinical supervisors in each region report to the Director in Region.

After Hours Services

There are two systems of after hours services in Newfoundland and Labrador. In St. John's region, there are full-time social workers who are scheduled on a rotation basis to provide services after regular working hours. For all other regions, social workers rotate the responsibility in addition to their full-time responsibilities.

Human Resources

Social workers must have at minimum a Bachelor of Social Work degree and must be registered with the Newfoundland and Labrador Association of Social Workers. Competency training for social workers is based on the Child Welfare League of America model. In-service training that is specific to an individual region is provided by the governing Board of Directors.

Children's Advocate

Newfoundland and Labrador does not have a children's advocate; however, an advocate's office is expected to be established in the fall of 2001. Accountability provisions in the *CYFSA* aim to ensure that the needs of all children in need of protective services are met.

First Nations

Legislation

The *CYFSA* does not contain any statutory provisions specific to First Nations.

Agencies

Newfoundland and Labrador has no agreements with First Nations people concerning the administration of Aboriginal child and family services. Some First Nations communities in Labrador have child welfare committees made up of elders, community members and the Child, Youth and Family Services staff for that community. The committees provide a forum for discussion of problem cases, wherein a community member can bring a case to the committee to discuss possible solutions. The child welfare committees may also be asked to assist with voluntary supervision.

Under the auspices of Conne River Health and Social Services, Newfoundland and Labrador has one delegated First Nations agency. Most Departmental offices in Labrador have a First Nations person on staff (not necessarily a social worker) who can assist Child, Youth and Family Services personnel in providing culturally sensitive services.

Definitions

Child

Under Section 2(d) of the *CYFSA*, a **child** is defined to be "a person actually or apparently under the age of 16". Under *The Adoption of Children Act*, a **child** is defined to be "a person under the age of nineteen years".

Youth

Section 2(o) of the *CYFSA* defines a **youth** as "a person who is 16 years of age or over but under 18 years of age."

Child in Need of Protective Intervention

In Section 14 of the *CYFSA*, a "**child is in need of protective intervention where the child**

a) is, or is at risk of being, physically harmed by the action or lack of appropriate action by the child's parent;

b) is, or is at risk of being, sexually abused or exploited by the child's parent;

c) is emotionally harmed by the parent's conduct;

d) is, or is at risk of being, physically harmed by a person and the child's parent does not protect the child;

e) is, or is at risk of being, sexually abused or exploited by a person and the child's parent does not protect the child;

f) is being emotionally harmed by a person and the child's parent does not protect the child;

g) is in the custody of a parent who refuses or fails to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment to be given to the child when recommended by a qualified health practitioner;

h) is abandoned;

i) has no living parent or a parent is unavailable to care for the child and has not made adequate provision for the child's care;

j) is living in a situation where there is violence; or

k) is actually or apparently under 12 years of age and has

   i) been left without adequate supervision,

   ii) allegedly killed or seriously injured another person or has caused serious damage to another person's property, or

iii) on more than one occasion caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent's encouragement or because the parent does not respond adequately to the situation."

Under Section 71 of the *CYFSA*, a person who by commission or omission willfully contributes to a child being a child in need of protective intervention is guilty of an offence and liable on summary conviction to a fine up to $10,000 and/or imprisonment for up to six months.

Child Maltreatment

In Newfoundland and Labrador, child maltreatment is operationally defined in policy in terms of sexual abuse, physical abuse, and emotional abuse.

Sexual Abuse

Sexual abuse is defined as the abuse of a child by an adult or a significantly older or more powerful child for:

- any sexual activity between an adult and a child under the age of 14;
- any sexual activity between an adult and a person in a position of trust or authority towards a child between the ages of 14 and 18;
- any sexual activity without consent of a child of any age; and
- prostitution and pornography.

Physical Abuse

Physical abuse is defined as a deliberate, non-accidental physical assault or action by an adult or significantly more powerful child that results, or is likely to result, in physical harm to a child.

Emotional Abuse

Emotional abuse is a form of maltreatment of a child by those responsible for the child. It includes acts or omissions that are likely to have serious, negative emotional impacts and may occur separately or along with other forms of maltreatment.

Legislated Rights of Children

The best interest of the child is paramount in all actions taken under the *CYFSA*. Section 9 requires that: "All relevant factors be considered when determining a child's best interests, including:

a) the child's safety;

b) the child's developmental needs;

c) the child's cultural heritage;

d) where possible, the child's views and wishes;

e) the importance of stability and continuity in the child's care;

f) the continuity of a child's relationship with his or her family, including siblings or others with whom the child has a significant relationship;

g) the child's geographic and social environment;

h) the child's supports outside the family, including child care and the school environment; and,

i) the effect upon the child of a delay in the disposition of a judicial or other proceeding with respect to the child."

Mandatory Reporting of a Child in Need of Protective Intervention

Who Must Report

Under Section 15.1 of the *CYFSA*, "where a person has information that a child is or may be in need of protective intervention, the person shall immediately report all the information regarding the matter to a Director, a social worker or a peace officer". The duty to report is an expectation of all people in the province. Under Section 15.5, the obligation to report includes every person who performs professional or official duties with respect to a child, "including a health care professional, a teacher, school principal, social worker, family counsellor, member of the clergy or religious leader, operator or employee of a child care service, a youth and recreation worker, a peace officer, and a solicitor".

Penalties for Not Reporting

A person who fails to report child abuse and/or neglect is guilty of an offence and is liable on summary conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding six months.

Investigation of Allegation of Abuse

Who Investigates

Upon receiving information that a child is or may be in need of protective intervention, a Director or social worker assesses the information to determine if there are reasonable grounds to believe that a child is in need of protective intervention. After the assessment, a Director or social worker may:

- determine that protective intervention is not required;
- offer support services to the child and family;
- refer the child and family to other resources; or
- further investigate the child's need for protective intervention (*CYFSA*, Section 16.1 and 16.2).

If the outcome of this initial assessment is a determination that further investigation is not required, the family may be offered voluntary family or support services, may be referred to other resources, or the case may be closed with no further intervention required.

If assessed as requiring an investigation, allegations of abuse must be investigated within 72 hours by a social worker from a Health and Community Services or Integrated Health Board. Physical or sexual abuse reports are referred to the RCMP or the Royal Newfoundland Constabulary Police for review and determination of criminal investigation. When reports have been determined to warrant a criminal investigation, they must be investigated jointly by the police and a social worker from the Health and Community Services or Integrated Health Boards.

Warrants

Where a Director or a social worker determines upon investigation and assessment that a child is in need of protective intervention, a warrant must be obtained to remove the child from the home. In areas of the province where it is not possible to meet personally with a judge to apply for a warrant, a telewarrant may be obtained by telephone or other means of telecommunication.

When a Director or social worker has reasonable grounds for believing that there would be an immediate risk to the child's health and safety if no action were taken during the time required to obtain a warrant, a child may be removed from the home without a warrant. If necessary, a peace officer may assist, with or without a warrant.

Where a child has been removed with or without a warrant, a written notice of removal stating the reason for the child's removal is provided to the parent from whom the child was removed and the child (if 12 years of age or over) within 24 hours. Where personal service of a notice of removal cannot be effected, written notice may be made by registered mail. Notice is also given to the legal guardian of the child, if other than the parent.

Risk Assessment/Risk Management

The New York State Risk Assessment Instrument and the Youth Risk Screening Tool are used to assist social workers in case planning, intervention decisions and assessing risk of future abuse. The risk management process must be used during the investigation process and at several points during the ongoing case management process. After the initial investigation, the risk management process recurs:

- at any time a new report/referral is received on an open case;
- when there is a change in the composition of the family, such as when a parent or other significant family member leaves or returns to the family, or when another child is born; and
- within seven days after a child is returned home after having been in substitute care, (foster care or relative placement, either voluntary or court ordered) and then monthly until the absence of risk on follow-up assessments can justify that the case be closed.

Departmental Role in Investigation of Third Party Abuse

The Boards investigate third party abuse according to the definition of a child in need of protective intervention, i.e., when a parent does not protect the child from harm. The investigation is usually conducted with police and risk is assessed as with other investigations.

Investigation of Child Deaths

In accordance with the legislative power of the *Medical Examiner Act*, the Chief Medical Examiner (CME), the Major Crimes Unit, the RCMP and/or the Royal Newfoundland Constabulary investigate child deaths that are non-criminal and that are not due to natural causes. The CME determines when autopsies are performed and what tests are necessary. An internal review of the police investigation occurs before a file is closed to ensure that the requirements of policy, procedures, and legislation have been met. Recommendations are produced after each review with respect to preventing similar deaths in the future.

Child Abuse Register

The Province of Newfoundland and Labrador does not operate a child abuse register. The Client Referral and Management System registers case information and workload information on families who have a child alleged to be in need of protective intervention.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases), or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Care Agreements

If services cannot be provided to enable a parent to care for a child in the family home, a parent may enter into a **Voluntary Care Agreement** (VCA) which transfers care of the child to the Director of Child, Youth and Family Services. Under this agreement, the parent retains custody and the child is placed with an approved caregiver. The parent makes all major decisions relating to the child and is involved or advised of day-to-day decisions. Through a VCA, the parent may delegate authority to the Director or social worker to give routine medical consent on his or her behalf.

A VCA may be used to provide temporary care to a child in the following circumstances:

- when a parent needs a short period of time to make permanent plans for the child;
- where there may be problems with managing a child's behaviour or with meeting a child's special needs and a parent is cooperating fully in making permanent plans for the child;
- where, due to illness or hospitalization, a parent is unable to care for a child and there are no supports such as relatives/friends or home support services that will enable the child to remain at home;
- where a parent is having difficulty coping but is prepared to maintain involvement with the child and resume care of the child within a short period of time;
- when a parent needs time to make alternate living arrangements because of issues associated with family violence; and
- where a child's safety is at risk and the parent voluntarily requests placement.

A VCA must not exceed three months but may be extended for six months where exceptional circumstances exist. A VCA can be made only once unless it is with the approval of the Director, and where exceptional circumstances justify an exception to that rule. The VCA may be terminated at any time by a social worker or by the parent when the child reaches 16 years of age.

Youth Services Agreements

By entering into a **Youth Services Agreement** (YSA), youth can receive residential and support services without entering into a care or custodial relationship with the Director. A YSA documents the conditions under which the agreement is made and the primary responsibilities of all parties. All youth who are approved for residential and support services must have an Individual Support Services Plan (ISSP) and are entitled to a basic living allowance equal to the basic caregiver rate (formerly known as the foster care rate). An assessment of the parent's ability to contribute to the financial maintenance of a youth is usually completed within 30 days of signing the YSA. A youth requesting only the basic living allowance must agree to monthly contact with his/her social worker and to meeting with the worker every six months to review the agreement. Shorter review periods may be arranged at the discretion of the youth and social worker.

A child who was in care or custody of the Director before reaching 16 years of age is entitled to services through a YSA between age 16 to 18 or until 21 years of age if still attending school. A youth who has been in the care of the Director prior to 16 years of age and cancels a YSA retains eligibility for services for a period of six months following cancellation. Assistance in preparing for independent living is available to youth who were in the care of the Director at any time prior to their 16th birthday. These youth may also be provided with financial and accommodation assistance.

Before entering into a YSA under Section 11 of the *CYFSA*, every effort is made to facilitate family preservation/reunification, if it is in the best interests of the youth. A YSA is a voluntary agreement and may be cancelled by either the youth or the social worker.

Court-Ordered Protective Intervention

If a Director or social worker, during or following an investigation of reported maltreatment of a child, believes on reasonable grounds that:

- a child is in need of protective intervention;
- the child's safety could be assured without removing the child, with the provision of protective intervention services; and
- a parent of the child is unwilling to agree to protective intervention services for the child,

the Director or social worker may file an application to the court for a **Supervision Order**. A hearing is held within 30 days of the filing of the application. Notice of the time and place of the hearing is served to the parent (and the child, where the child is 12 years of age or older) no later than three days after the date for holding the hearing is obtained from the court. A judge determines if the child is in need of protective intervention and may issue a warrant authorizing the Director or social worker to remove the child.

Where a child has been removed from the home, the Director or social worker files an application within 24 hours for a protective intervention hearing which is held no later than 30 days after the child's removal. At the same time, the Director or social worker is given a date for a presentation hearing which is held no later than 10 days after the date on which the protective intervention hearing application is filed. Notice of the time and place of the protective intervention and the presentation hearing is served to a parent of the child and the child, if the child is 12 years of age or older, no later than three days after the dates for holding the hearings are obtained.

The parent of the child and the child, if 12 years of age or older, also receive a copy of the originating application, a written report of the circumstances that led to the removal of the child, and the Director's or social worker's plan for the child, pending the protective intervention hearing. No later than 10 days prior to a protective intervention hearing, a Director or social worker files a written plan for the child with the court and provides a copy to those persons to whom notice of the hearing has been given. No later than three days before the protective intervention hearing, those persons to whom a copy of the plan has been given may respond to the plan and provide an alternate written plan to the court and the Director or social worker.

Presentation Hearing

A Presentation Hearing is a preliminary hearing and may be conducted by a judge in an informal manner (such as teleconference) and is concluded within one day, unless extended by the judge. A presentation hearing is an important prelude to a protective intervention hearing and may result in a final order being made by the judge, thus removing the necessity for a protective intervention hearing. At the conclusion of a presentation hearing, a judge may:

a) dismiss the application for a protective hearing;

b) return the child to the parent under the supervision of a Director or social worker until the conclusion of the protective intervention hearing;

c) place the child in the care of a person other than the parent until the conclusion of the protective intervention hearing;

d) keep the child in the care of a Director until the conclusion of the protective intervention hearing; or

e) declare the child is in need of protective intervention and make an order under subsection 34.2 of the *CYFSA*.

A judge may give the parties to the hearing directions with respect to relevant matters, attach conditions to an order and/or grant a parent, or a person significant to a child, access to the child. If the matter has not been resolved at the presentation hearing, a protective intervention hearing is subsequently held.

Protective Intervention Hearing

At a protective intervention hearing, a judge may make an order under Section 34 of the *CYFSA* as follows:

a) that the child be returned to or remain with the parent and under the Director's supervision for a specified period of up to six months;

b) that the child be placed in the custody of a person other than the parent from whom the child was removed, with the consent of the other person and under a Director's supervision, for a specified period in accordance with Section 36 (a Temporary Order described later in this chapter);

c) that the child be placed in the custody of a Director on a temporary basis for a specified period in accordance with Section 36; or,

d) that the child be placed in the continuous custody of a Director.

The judge may attach any conditions that may be appropriate and may grant a parent or a person significant to the child, access to the child. When the judge finds that the child does not need protective intervention, the judge may order that the child remain with, or be returned to, the parent from whom the child was removed.

Orders

Where it is determined that a child cannot remain safely with her/his parent and a less intrusive course of action is not available or appropriate to protect the child, a **Temporary Order** is used to transfer custody and guardianship to the Director. A Temporary Order is considered in circumstances where there is a likelihood that with intervention, the child may be able to return home. The Director has custody of the child for a specified period but cannot consent to medical treatment other than necessary routine medical treatment, unless the parent consents; however, a judge may make an order authorizing treatment under Section 32 of the *CYFSA*. The initial term of a Temporary Order cannot exceed:

- three months, if the child is less than five years of age when the order is made, to a maximum of three orders in total;
- four months, if the child is five years of age or over but under 12 years of age when the order is made, to a maximum of three orders in total; and,
- six months, if the child is 12 years of age or over when the order is made, to a maximum of three orders in total.

A Temporary Order may be further extended with one additional term if there are exceptional circumstances that in the opinion of the judge warrant an extension, and where the parent may reasonably be expected to resume the custody of the child. An extended order cannot exceed four terms.

A judge may adjourn a protective intervention hearing one or more times for a total of three months to allow for a pre-trial settlement conference, a family conference, mediation, or other means of alternate dispute resolution to proceed. An extension may also be granted where an assessment is considered necessary. According to Section 38 of the *CYFSA*, where all the time limits expire, "a judge may make one of the following orders:

a) that the child be placed in the continuous custody of a Director;

b) that the child be placed in the custody of a person other than a parent, with the consent of that person; or,

c) that the child be returned to the parent from whom the child was removed."

Before a Supervision Order or Temporary Order expires, a Director or social worker may file an application with the Court for an extension of the existing order or for a **Continuous Custody Order**. A copy of the Director's or social worker's plan for the child must accompany the application. Notice of the time and place of the hearing is given to the parent and the child, where the child is 12 years of age or older, not later than 10 days prior to the hearing. At least three days before the date set for the hearing, those receiving notice may respond to the Director's or social worker's plan and provide an alternate written plan to the judge with a copy to the Director or social worker.

When a judge determines that a child cannot return to the parent, a Continuous Custody Order places the child in the continuous custody of the Director; all parental rights are removed from the parents and are assumed by the Director. When circumstances change significantly after the time a Continuous Custody Order was made and the child has not been placed for adoption, a judge may rescind a Continuous Custody Order. Any party to a hearing at which a Continuous Custody Order was made may apply to the judge to rescind the order. The application must be served on the Director concerned, the parent, the child (where the child is 12 years of age or older), and any other party who was present at the original hearing, not later than 10 days prior to the hearing. The judge may grant an order to rescind a Continuous Custody Order where it is in the best interest of the child to do so.

A parent may consent to any order under the *CYFSA*, and it is thereafter known as a **Consent Order**. The judge must be satisfied that the wishes of the child have been considered and that the consenting parent has been informed that he or she may be represented by legal counsel and understands the nature and consequences of the consent. When a parent consents to an order under the Act it does not constitute an admission to a ground for protective intervention alleged by a Director or social worker.

Appeals

There is a 30-day appeal period on all orders made under the *CYFSA*. The Director, a social worker, anyone designated by the Director, a parent, or anyone entitled to make a complaint on behalf of the child may make an appeal.

In some cases, the judge may order that a lawyer be appointed for the child. Although a child generally would not appear in court, the judge may request the child's appearance in certain circumstances, such as when the child has definite wishes concerning the future. Legal proceedings under the *CYFSA* are heard in the Unified Family Court in St. John's and the Provincial Court in all other areas of the province.

Family Services Program

Early intervention with families is imperative to promote positive outcomes for children. Section 10.1 of the *CYFSA* states that "A director or social worker may provide services to children, youth and families, and may enter into written agreements with respect to the services to be provided and the responsibilities of each party to an agreement."

The Family Services Program is designed to ensure the safety, health and well-being of the child; prevent or reduce the risk or recurrence of child maltreatment; improve parenting capacity; prevent the removal of the child; and support communities in meeting the needs of children and families. Services are provided using the least intrusive means of intervention where possible. The type of services provided depends on the needs of the child and family, and must support the safety, health, and well-being of the children. Families are encouraged to participate in the identification, planning, provision, and evaluation of services available to them.

Agreements for the provision of services may be created by using two methods:

1. Directly with a child, youth, or family in the form of an Individual Support Services Plan (ISSP).
2. Directly with other service providers, agencies, governments, funding sources, or service organizations.

Youth Services

The primary focus of the Youth Services Program is the safety, health and well-being of youth. In keeping with this focus, the importance of the youth's family is a major consideration. Before an agreement under Section 11 of the *CYFSA* is entered into with a youth, every effort must be made to facilitate family preservation/reunification, if it is in the best interests of the youth. These efforts may include providing counselling for the family, mediation, and/or other services available under Section 10, in order to strengthen the family and to facilitate the youth remaining at, or returning home.

The underlying goal of the Youth Services Program is to assist young people in a successful transition to adulthood. When a youth cannot remain or return safely to his or her parents' home, financial and residential supports may be provided following assessment.

Placement Resources

The placement of children is guided by the overall philosophy and principles of the *CYFSA*. Departmental policies and programs relating to the placement of children include:

- Permanency Planning;
- Parent Resources for Information and Development (P.R.I.D.E.);
- Model for Co-ordination of Services for Children and Youth; and
- Individual Support Services Planning Process.

When a child requires protective intervention in the form of out-of-home placement, the placement process is carried out in the least intrusive manner possible, bearing in mind the best interest of the child in accordance with the *CYFSA*. Caregiver service (formerly known as foster care) is used as a placement option for children who cannot live at home and for whom placement with a relative is not available.

The Department of Health and Community Services funds caregiver homes through a per diem rate structure that is managed by the RHCS and IHB. There are several placement options for children requiring out of home placements, including family/significant other, non-custodial parent, caregiver services, and group homes.

Family/Significant Other

Under Section 62.2 of the *CYFSA*, the first consideration for child placement must be with a relative or a person with whom the child has a significant relationship. A person who provides care under this Section must be approved by a Director or social worker.

The approval process requires a home visit with all persons in the home being interviewed, a check for prior contact with child welfare, police checks, two non-relative references, one collateral reference, medical examinations of persons living in the home, and interviews with the child on the day of the placement, and seven days following the placement.

Non-Custodial Parent

Under Section 62.3 of the *CYFSA*, where a child is removed by a Director or social worker from a custodial parent and the non-custodial parent is considered by the Director or social worker to be suitable to provide care, the child may be placed with the non-custodial parent pending final determination of the protection hearing application by the court.

The social worker must complete an assessment of the non-custodial parent's living arrangement, which includes:

- a home visit to determine the appropriateness of the living arrangement;
- determining the wishes of the child and the relationship that exists between the child and the non-custodial parent;
- determining whether the placement is suitable to meet the child's needs;
- police checks and/or certificates of conduct; and
- determining the factors which led to the child being in the custody of the other parent.

Caregiver Services

When a child cannot be placed with family or a non-custodial parent, the child may be placed with a caregiver who is approved by a Director or a social worker.

Before any family is approved as a caregiver and a child placed in the home, pre-service training must be completed. As a part of P.R.I.D.E. training, pre-service training of prospective caregivers and adoptive parents is mandatory. Families or significant others approved under Section 62.2 are not required to attend P.R.I.D.E. training, but may do so voluntarily.

The approval process also requires an application for caregiver services, the supporting documentation, plus the worker's recommendation, which are submitted to the supervisor for consideration. The supervisor may approve, reclassify, revoke, or refuse to approve a caregiver home. Each time a home is approved, the social worker and the caregiver sign a caregiver home agreement that states the maximum number of children that can be placed in the home.

An annual report on every approved caregiver home is submitted by the social worker to the supervisor. The report includes a recommendation regarding the continued use of the home.

Investigation of Allegations Against Caregiver Homes

When an allegation of abuse against a caregiver home is received, the Director in Region is advised immediately. The investigation is conducted by a social worker from an office of a Health and Community Services or Integrated Health Board other than the one supervising the placement. Where there appears to be a valid basis for a complaint that a child has been physically, sexually or emotionally abused, the matter is referred immediately to the police for investigation of possible criminal offences.

The investigation of allegations against a caregiver home must begin immediately after receiving a complaint and be completed within 30 days. The social worker assigned to the home notifies the caregiver home and assumes a supportive role for the children and the caregivers. Where the safety of the child or the integrity of the investigation would be jeopardized, no notice is given to the caregivers prior to the start of the investigation. A decision to remove the child from the home is based on consideration of whether the child might be physically or psychologically harmed if left in the caregiver home.

Upon completion of an assessment report by the investigating social worker, a case conference is held for the purpose of reviewing the outcome of the investigation. This conference involves the investigating social worker, the supervisor, the social worker supervising the caregiver home and the Director in Region. The caregivers' Director in Region advises them of the review immediately in writing. The social worker completing the investigation makes recommendations about the future use of the home.

Newfoundland and Labrador Caregiver Association

The Newfoundland and Labrador Caregiver Association (formerly the Newfoundland and Labrador Foster Families Association) was established in 1982 to support caregivers. A liaison committee made up of Association members, representatives from the Provincial Department of Health and Community Services and members from the RHCS Boards and the IHB meets on a regular basis to work on issues affecting the quality of care provided to children in care. The Association works with the Department and Board Staff to provide training to caregivers and has assisted in the development of the caregiver handbook. The Department of Health and Community Services funds the Association with an annual grant.

Group Homes

The Department funds three private group homes for children in care 14 to 16 years of age. They have a total combined placement capacity of up to 17 children. One home provides a special caregiving arrangement for young girls and the two others are co-ed group homes geared to long-term treatment and care.

Adoptions

Adoptions in Newfoundland and Labrador are carried out under the authority of the *Adoption of Children Act*. An **Adoption Order** makes the adopted child the child of the adoptive parents and transfers to them all the legal obligations and duties of birth parents. The Director of Adoptions may approve the direct placement of infants with prospective adoptive parents who have been chosen by the birth parents. An Adoption Order, or a refusal by a judge to make an order, may be appealed by the child, the adoptive parents, or the birth parents within one year of the date of the order.

Children are made available for adoption by means of two separate orders. When parents wish to permanently relinquish all rights to their child, a Consent to Adoption form may be completed and signed, and the child is then available for adoption. In the case of a newborn child, the consent cannot be given until seven days after the child's birth. The parents must be aware of the sex and name of their child prior to signing the consent. The parents then have 21 days to cancel the consent before it becomes binding. In situations where a single mother identifies the father, and he acknowledges paternity, his consent must also be obtained. If the child has not been placed for adoption, the parents may terminate the agreement with the Director's consent at any time. If the child has been placed for adoption, an application to the Court is required to terminate the agreement.

When a child is in the continuous custody of the Director under a Continuous Order, adoption is considered as the permanent plan for the child, if it is in the child's best interests. If the child is in the continuous custody of the Director, the Director's (and the child's, where he/she is 12 years of age or older) consent is required for adoption. However, reasonable efforts are made to notify the birth parents of the adoption plan; they have 30 days to initiate court action to request a review of the Continuous Custody Order and a variation to the order.

Under a Temporary Order, or when a parent relinquishes custody, an Adoption Order will not be made until the judge is presented with the written consent of the child (if the child is 12 years of age or older), of both parents (custodial and non-custodial), or of the mother, if paternity has not been established. The judge may dispense with the consent of the child or a parent in some situations.

Adoptions are grouped into three categories: infants, older children, and international adoptions. The older children category includes children who are three years of age and over, or have special needs, physical or mental challenges, or are part of a sibling group. Adoptive parents receive post-placement support, including preparation of probationary progress reports that are required prior to the finalization of adoption.

The Subsidized Adoption Program is intended to provide the stability of an adoptive home for children in continuous custody for whom, because of their special needs, suitable placements cannot be found without extending financial assistance to the adoptive family. The subsidy is specified in a **Subsidized Adoption Agreement** and may include financial aid or one-time funding for necessary items or equipment at the time of placement, and/or direct services. The subsidy may continue as long as the need remains and the child is under 19 years of age. The adoption subsidy can be reviewed at any time at the request of the adoptive parents or if there are significant changes in circumstances. An annual review of the subsidy is required.

International Adoption

The government of Newfoundland & Labrador has not yet enacted legislation to implement the Hague Convention on Intercountry Adoption.[1]

Post-Adoption Services

In 1990, legislation was changed to allow for searches for birth parents at the request of adult adoptees. The post-adoption program provides services free of charge to adult adoptees, birth parents, adoptive parents and the children they have adopted. In the spring of 2002 the new *Adoption Act* will be proclaimed, moving the province toward a more open adoption system.

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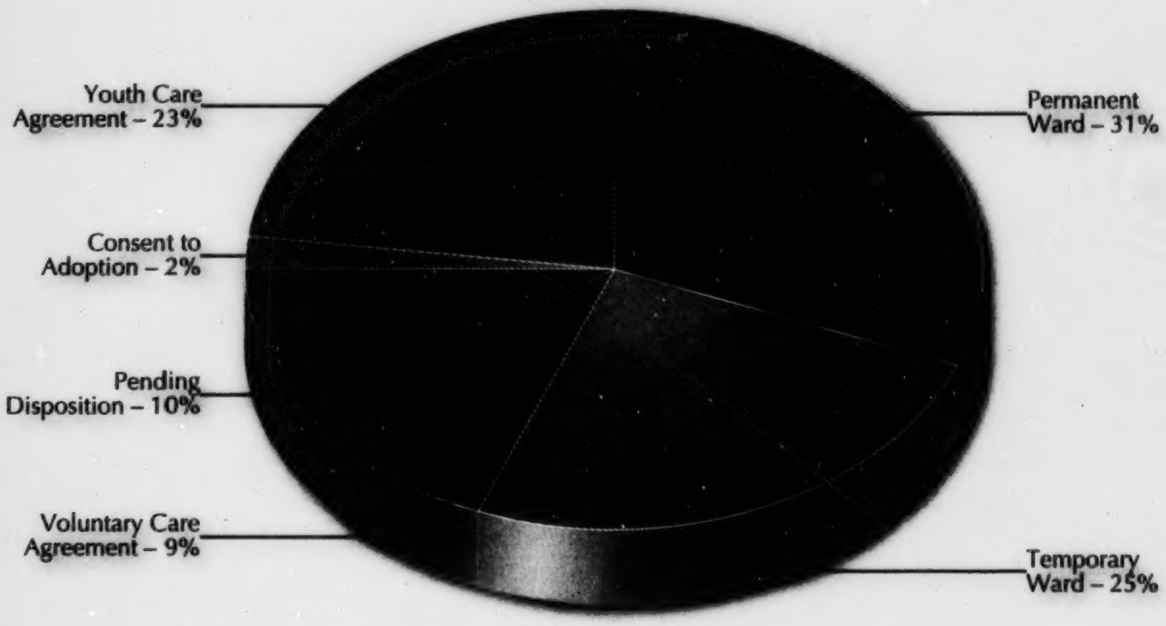
[1] The new *Adoption Act*, which ratifies the Hague Convention, will be proclaimed in the Spring 2002.

Statistics

Newfoundland and Labrador data should not be compared with data from other jurisdictions due to the limitations outlined in the Introduction.

Figure 1.1

Children in Care by Legal Status as at March 31, 1999

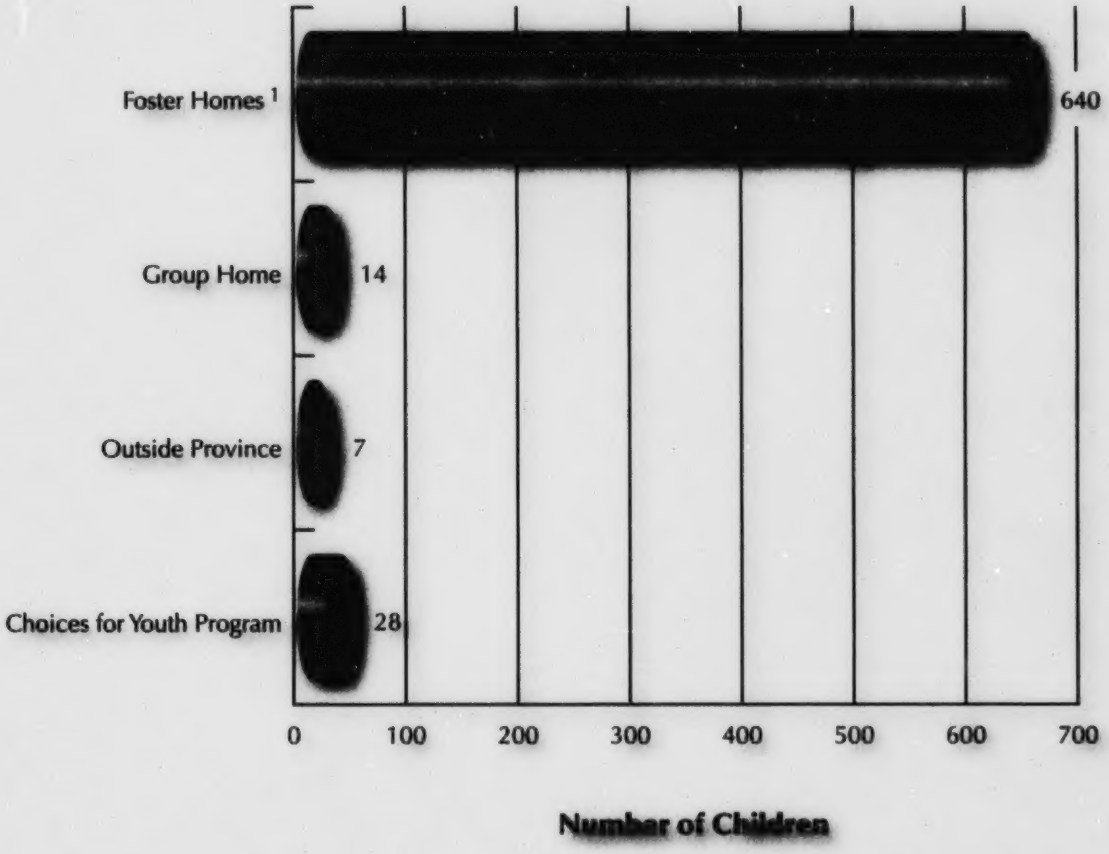


Children in care: 703

Figure 1.2

Children in Care by Placement Type as at March 31, 1998

Please note: *The latest available data for children in care by placement type is March 31, 1998.*



1 Total includes relative, board and lodging, and non-relative.

Children in care: 689

Resource Material

Legislative Material

Child, Youth and Family Services Act. S. Nfld. 1998, c. C-12.1.

Adoption of Children Act. R.S. Nfld. 1990, c. A-3, as amended by 1993, c. 46; 1996, c. R-10.1; 1998, c. C-12.1.

Children's Law Act. R.S. Nfld. 1990, c. C-13, as amended by 1991, c. 43; 1995, c. 27; 1998, c. C-12.1.

Health and Community Services Act. R.S. Nfld. 1997, c. C-11.1 as amended by 1997, c. 23 s. 18; 1997 c. 24; 1998, c. C-11.1 s. 21.

Reports

Christianson-Wood and Jan, Jane Lothian Murray. (1999) *Child Death Reviews and Child Mortality Data Collection in Canada*. A report prepared for Health Canada.

Government of Newfoundland and Labrador. (1998) *People, Partners and Prosperity – A Strategic Social Plan for Newfoundland and Labrador.*

Social Policy Advisory Committee. (1997) *Volume II: Investing in People and Communities – A Framework for Social Development.* Government of Newfoundland and Labrador.

Other

Government of Newfoundland and Labrador Web site: **http://www.gov.nf.ca/**

Health and Community Services, *Press Release*, December 02, 1999, p. 4.

Ministerial Statement, November 23, 1998, p. 2.

Newfoundland Health and Community Services Central Region Web site: **http://www.hcsc.nfld.net/**

Social Services. *Press Release*. March 18, 1997.

Toward the 21st Century: A Review of Child Welfare Programs and Legislation.

2 PRINCE EDWARD ISLAND

Administration and Service Delivery

Administration

The *Health and Community Services Act (H&CSA)* provides the administrative framework and legal authority through which the Minister of Health and Social Services delivers a range of health and social services. The *H&CSA* clarifies the specific duties and responsibilities assigned to the five Regional Health Authorities in Prince Edward Island as well as the specific authorities and responsibilities assigned to the provincial Department of Health and Social Services.

The *Family and Child Services Act (F&CSA)* is the governing legislation that mandates child protection services, services to children in care, and specific support services. The Director of Child Welfare is appointed by the Minister to administer and enforce the provisions of the Act. The Director assumes authority under the *F&CSA* and the *Adoption Act* and delegates certain authority to Social Work Practitioners, as provided for in both Acts.

The Child, Family and Community Services Division within the Department is responsible for developing and setting provincial policy for child protection and related services. This duty is recognized to be a function of the Director and is carried out by the Children's Services Section, under the Director's management.

In addition to policy duties, the Director has specific responsibilities with respect to the administration and enforcement of the *F&CSA* as well as the *Adoption Act*. Under both the *H&CSA* and the *F&CSA*, the Director is responsible for consultative support to regions; program monitoring and quality control; provincial/territorial/federal contact; inter-sectoral contact; and research. The Director provides a mechanism for consumer complaints and system advocacy. The Youth Service Consultant of Health and Social Services also reports to the Director.

Service Delivery Network

Regional Health Authorities are assigned to manage the delivery of all health and social services, including hospitals, within a defined geographic area. The Regional Authority is governed by a board of elected and appointed members, and it is constituted in accordance with the *H&CSA*. The Board hires a Chief Executive Officer and confers the authority to organize an administrative structure to provide for and manage services that fall under the region's service delivery mandate. There are five regional authorities: West Prince, East Prince, Queens, Southern Kings and Eastern Kings. Each Authority has an office for child protection and related services.

The five Regional Health Authorities are required under the *H&CSA* to deliver a range of "core programs" through their Child and Family Services Divisions, including Child Protection Services. Under the *H&CSA*, the provincial Department of Health and Social Services creates the provincial policies concerning core programs.

After Hours

A 24-hour telephone line operates for the reporting of emergency after-hours cases. Each region is responsible to have designated staff on an Emergency Duty rotation, who receive, screen and respond to after-hours emergency calls. Any practitioner responding to calls may consult with a supervisor to determine the appropriate course of action. All calls are recorded; all those not requiring an immediate investigation are referred to the appropriate supervisor on the next working day. Legal counsel is available after hours and must be contacted as soon as possible following any emergency apprehension.

Human Resources

On PEI, child protection work is considered to be social work by both the provincial government and the Social Work Registration Board and is therefore subject to the *Social Work Registration Act*. This necessitates that all staff who work in "designated" child protection positions must be registered with the Social Work Registration Board, which requires a Bachelor of Social Work degree as the minimum qualification. One exception applies to several non-registered individuals, who were designated before registration requirements were in effect. Social workers delegated by the Director to provide child welfare services are employees of the Regional Health Authorities and not the provincial government.

In practice, new workers receive the bulk of preparation for their work assignment through their supervisor and office. To complement this effort, the office of the Director offers an annual eight-component provincial training program known as "Worker Readiness Training" dealing with key aspects of child welfare practice. This training is mandatory for new workers who, upon completion, are required to complete a written test before being eligible for the delegation of authority known as "designation". To complete the delegation process, new staff are recommended by the supervisor for a designation interview with the Director. Designation is based on the outcome of the interview, the training and a written test. Based on a one-year training cycle, it is expected that staff will be designated sometime within their first year of employment. During their first year of employment, new workers are considered to be apprenticed to their supervisor who is responsible for "designated decisions" regarding cases assigned to the new worker.

A core training program is being planned to further develop requisite skill sets for workers in their second, third and fourth year of employment. An ongoing training scheme for senior staff to enhance their skills and interests in specific areas of practice is also in development. Further expansion of these two training frameworks is expected to follow the implementation of the new *Child Protection Act* that was passed by the government of PEI in December of 2000.

An annual conference is held for Child Protection staff, with the theme and presentations determined by a committee of staff representatives. Additional specialized training programs include Joint Sexual Abuse Investigations, that is, training with police and child protection staff, and Adoption Program Training for staff seeking legal authorization to do adoption work for their region. Other general training is encouraged, but not mandatory.

Children's Advocate

PEI does not have a children's advocate.

First Nations

Legislation/Agencies

Regional offices deliver child protection and related services to the two First Nation bands on PEI: Lennox Island and Abegweit. The funding for these services is provided through a bilateral funding agreement between the federal Department of Indian Affairs and Northern Development (DIAND) and the province. Since 1999 the two island First Nations and the province have collaborated to develop a new funding arrangement proposal in co-operation with DIAND. The new proposal seeks to make Lennox Island and Abegweit full and present partners in the funding and delivery of child welfare services to their community members.

There are no specific provisions for Aboriginal people or First Nations in the current legislation and policy. In practice, however, staff are educated about the importance of Aboriginal culture and heritage to an Aboriginal child and her/his family. Every effort is made to secure either extended family or Aboriginal homes for placement and adoption of Aboriginal children. For intake and investigation, as well as in ongoing protection work on First Nation reserves, the Department makes every effort to co-ordinate the overall process of child protection work and specific issues with the band Chiefs.

There are specific provisions in proposed amendments to the new *Child Protection Act* requiring that notice of hearing be served on the First Nation with respect to court hearings and that plans of care for Aboriginal children are to be developed with their First Nation.

Definitions

Child

Under the *Family and Child Services Act*, Section 1(e), a "**child** means a person actually or apparently under the age of majority" (18 years of age is legislated under the *Age of Majority Act*).

For the purpose of adoption, under the *Adoption Act*, a "**child**" includes "a person who is under the age of 21 years".

Child in Need of Protection

Under the *Family and Child Services Act*, Section 2, "a **child in need of protection** means a child:

a) who is not receiving proper care, education, supervision, guidance or control;

b) whose parent is unable or unwilling to care for the child, or whose behaviour or way of life creates a danger for the child;

c) who has been physically abused, neglected or sexually exploited or is in danger of consistently threatening behaviour;

d) who is forced or induced to do work disproportionate to his strength or to perform for the public in a manner that is unacceptable for his age;

e) whose behaviour, condition, environment or associations is injurious or threatens to be injurious to himself or others;

f) for whom the parent or person in whose custody he is neglects or refuses to provide or obtain proper medical or surgical care or treatment necessary for his health and well-being where it is recommended by a duly qualified medical practitioner;

g) whose emotional or mental health and development is endangered or is likely to be endangered by the lack of affection, guidance and discipline or continuity of care in the child's life;

h) for whom the parent or person in whose custody he is neglects, refuses or is unable to provide the services and assistance needed by the child because of the child's physical, mental or emotional handicap or disability;

i) who is living in a situation where there is severe domestic violence;

j) who is beyond the control of the person caring for him;

k) who is living apart from his parents without their consent; or

l) who is pregnant and refuses or is unable to provide properly and adequately for the health and welfare needs of herself and her child both before and after the birth of her child[1]."

Child Abuse

Section 1(a) of the *Family and Child Services Act* defines **child abuse** as "physical, mental, emotional or sexual mistreatment of the child".

Legislated Rights of Children

The *F&CSA* has several sections that imply or specify certain rights for children who receive services under the Act. Section 11 allows the Director to provide support services directly to a child who has attained the age of 16 years. The child's parent(s) must be consulted and it must be determined that serious differences exist between the child and his parents. In Section 37(3), a child of 16 years who has been in permanent guardianship for a year or more and who has not been placed for adoption may apply to the court to terminate the Permanent Guardianship Order. While not framed as a right or a requirement, Section 45 of the Act implies that a child has a right to be placed in a home with similar religious affiliation to facilitate her/his religious upbringing, if available and requested by the parents.

Child Abuse/Neglect Protocols

PEI has a Child Sexual Abuse Protocol, which establishes the investigative relationship between Island police forces and Child and Family Services. This protocol also provides the framework for other co-investigative activities on abuse, neglect, and family violence matters. Further, PEI has accepted the Rural Child Sexual Abuse Intervention Model as a model of best practice for integrating the activities and relationships of various services for the sexually abused child and her/his family. This model includes a collaborative case management approach, advocacy, case review and long-term healing approaches.

An external review of PEI's child protection program recommended that a more specific abuse and neglect protocol be developed as part of the longer-term strategic plan for the child protection program. Regions develop protocols with local police and school boards that are specific to carrying out local investigative actions.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 14(1) of the *F&CSA* states that: "Every person who has knowledge or has reasonable and probable cause to suspect that a child has been abandoned, deserted or abused must forthwith report this information to the Director or a peace officer who shall report it to the Director, and shall provide to a child care worker such additional information as is available to him (her) or is known to him (her)." Section 14(5) of the *F&CSA* further states that the only exception to this duty is information that is privileged because of a solicitor-client relationship.

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[1] Sub-section 2(1) has been determined by the Supreme Court of Canada to be unconstitutional.

Penalties For Not Reporting

Section 49 of the *F&CSA* states: "Any one failing to report child abuse may be guilty of an offence and may be liable to a fine not exceeding $1,000.00."

Investigation of Allegation of Abuse or Neglect

Who Investigates

Section 14(2) of the *F&CSA* stipulates that upon receiving a report or an allegation of abuse or neglect, or where the Director has reasonable and probable cause to suspect that a child is otherwise in need of protection, the Director may investigate the circumstances. The Director may also apply to the court for an order under Section 34 to provide child care services to reduce or eliminate any neglect or abuse of the child.

Reports and allegations of child abuse made to the Director are received by the Intake Team. The main services provided by the Intake Team are: intake, assessment/investigation assignment, brief counselling/consultation/referral, investigation, court services, and brief intervention. Intake workers respond to cases requiring investigation in order of priority and apparent urgency for a protection response. The provision of protection/support services is generally determined after an investigation has been completed but can be provided before completion, given the circumstances and needs of the child. If a case is determined to require a brief intervention (up to 3 months), the case can remain with the Intake Team to avoid transitional issues resulting from transfer to another worker. If a case requires longer-term protection services or where a child has come into care, the case is assigned to the Focused/long term Child Protection Team/Worker.

Time limits for investigations are not established in legislation, regulation or policy. In practice, staff evaluate each report and assign priority and time limits that reflect the urgency to respond.

Within all regions, trained Child Protection staff are specifically assigned to undertake Child Protection investigations and some are specially trained to investigate child sexual abuse. Where there is a need for joint investigation, police and Child Protection staff may jointly investigate child physical and sexual abuse cases. At certain key decision points throughout an investigation, workers are required to either review decisions with a supervisor or convene a "change in legal status conference" if a child is to enter care or if the worker feels it is necessary to proceed to court. All court-related matters are reviewed with legal counsel before proceeding.

It should be noted that child protection services on PEI operate within a broader child and family services mandate. Within that broader preventative mandate, staff also assess or investigate cases that are understood to require family and youth support, rather than child protection intervention. These cases contain a strong likelihood that without family and youth support, child protection issues would develop.

Warrants

Except where it not feasible to do so, the Director applies for a warrant from a judge before apprehending a child. In cases where delays would create serious risk to the child, a warrant is not required.

Mandatory Medical Examinations

When children are apprehended, they are taken to a family doctor or to a hospital for examination as soon as is reasonably possible or as the need dictates before being placed in a foster home. This practice ensures that the Protection Workers are aware of any injuries the child may have before entering foster care.

Risk Assessment/Risk Management

At present, PEI does not follow a defined risk assessment/management system based on one of the various models of Risk Assessment. However, PEI is exploring the implementation of the New York Risk Assessment Model, following recommendations in the external review of the province's child protection program and risk assessment research undertaken by the F/P/T Directors of Child Welfare Committee.

Departmental Role in Investigation of Third Party Abuse

There are no provisions in the *F&CSA* that address third party abuse. The mandatory reporting provision is written in an all-encompassing manner so that a person who has knowledge of child abuse, or reasonable cause to suspect that a child has been abused, must report it to the Director. Third party abuse is usually reported to the appropriate police authority (unless circumstances are such that abuse occurred because parents failed to protect their children appropriately).

Investigation of Child Deaths

The *Coroners Act* is the only legislation in PEI that governs child death reviews. In practice, PEI now reviews any death (from natural causes or otherwise) of a child who may have been involved with the child welfare and health systems. This review is not characterized as an internal investigation but as a case review to inform potential policy and practice development. It is anticipated that this practice will become structured in policy in the near future.

Child Abuse Register

The Department does not operate a child abuse register.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases) or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

A **Voluntary Agreement for Temporary Custody** transfers custody of the child from the parents to the Director. A Temporary Custody Agreement is typically used in situations such as family breakdown due to family crisis, alcohol abuse or family violence. This agreement may be used only when the parent is an active participant in planning for the child. The child is placed out of the home with the consent, understanding and approval of the parent; the parent and child care worker determine a case plan that is in the child's best interests. The original agreement may last for a period of up to six months. For children 12 years of age and under, an agreement may be extended for up to two further periods of six months each. An agreement for children 13 years of age and over may be extended for as many periods as required until the child reaches 18 years. Any party to the agreement may cancel it after a notice period of 15 days. Where a Voluntary Agreement for Temporary Custody is terminated, the Director may return the child to the parents or apply to the court for an order regarding the child's care. Parents may be required to pay all or part of the cost of providing care to the child as part of the agreement.

A **Voluntary Agreement for Temporary Guardianship** transfers the legal guardianship[2] of the child from the parent(s) to the Director for a period of up to six months. A Temporary Guardianship Agreement is used most often where a parent will be unavailable to make guardianship decisions for a certain period. As with the Custody Agreement, this period may be extended for up to two further periods of six months each. Under a Guardianship Agreement, the Director is given full responsibility by the parent/guardian to make major decisions in the child's interests. The Director has the right to decide who shall have actual custody of the child, may consent to medical treatment in place of the parent, plans for the child's education or recreation activities and administers any financial assets or property possessed by the child. The Director does not have the right to place a child for adoption while the child is under a Voluntary Agreement for Temporary Guardianship.

Court-Ordered Protection

Under the authority granted by the *F&CSA*, the Supreme Court of PEI – Trial Division is entitled to make the following orders where a child is found to be in need of protection:

- **Warrant of Apprehension** – Authorizes the Director to apprehend a child and where necessary, to enter a premises to search with the support of police. This order is granted ex parte.
- **Interim Custody Order** – Interim custody is requested by the Director at the first court appearance (five working days following apprehension) where the Director files the statement of claim and applies for a trial date. The child's legal status changes from apprehension to interim custody.
- **Supervision Order** – Upon application by the Director, the Court may order a Supervision Order for a period of six months. The Director can apply to extend the Supervision Order for further six-month periods.
- **Temporary Order for Custody and Guardianship** – The Court can order the temporary custody and guardianship of a child to the Director for six months at a time and for no more than 18 continuous months.
- **Permanent Guardianship Order** – The Court can order the permanent guardianship of a child to the Director.

It should be noted that the *F&CSA* does not provide the Court the authority to determine the plan of care. Under Section 24(1) of the Act, the authority to determine a plan of care is provided to the Director for those children who come into his custody and guardianship.

It should also be noted that the burden of proof in child protection matters is the civil test of balance of probabilities and preponderance of evidence. However, this test has evolved further in child protection matters through a decision of the Supreme Court of PEI - Appeal Division. The Court of Appeal found that the civil test must reflect the severity and impact of the Court's decision on parents and children in child protection matters. As such, all decisions of the Court must be supported by clear and cogent evidence, both at the protection and disposition stages of the court. In meeting this higher test, the Director must prove that he has "tried long enough and hard enough" to assist the family to meet the needs of their children before an order could be granted by the Court.

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[2] "The authority and responsibility for possessing the child physically and providing for the daily requirements related to the life and development of the child". (*F&CSA*, Section 1(i)).

Upon application by the Director, the judge may order the parent(s) to contribute to the cost of the child's maintenance and/or refund to the Director part or all of the sum expended for maintenance of the child prior to the making of the order.

Under a **Permanent Custody and Guardianship Order**, the Director becomes the sole guardian of the child until the child attains the age of majority, marries, is adopted, or the order is terminated by a judge. Residential care services are provided to children under Permanent Guardianship Orders by agencies incorporated according to Section 6 of the Act.

When a child turns 16 and has been in the permanent guardianship of the Director for at least one year and has not been placed in an adoptive home, he or she may apply to the court for an order terminating the guardianship. The Director may also apply for such termination where the child has been the subject of a Permanent Guardianship Order for at least one year and has not been placed in an adoptive home. Upon termination of the order, the judge may order that the child be returned to the parents or may appoint another person as the child's permanent guardian.

Appeals

Appeals of Permanent or Temporary Guardianship Orders must be directed to the PEI Supreme Court – Appeal Division.

Extended Care

The Director may extend care and maintenance to age 21 where the child is enrolled as a full-time student at an educational facility, is mentally or physically incapacitated or where the Director otherwise considers an extension to be appropriate.

Support Services

On PEI, early intervention or early supports are viewed as a means of offsetting the need for protection. These services, as outlined in legislation, are focused, clinical, and time-limited.

Voluntary Intervention Services

Each regional office has a long term or focused clinical intervention services team, or designated individual practitioners assigned to provide clinical services to families. These services include individual and family assessment and focused intervention follow-up services. Counselling is usually offered in conjunction with other services, and its availability depends upon the resources available in each regional office.

Over the past several years, individual regions have developed, implemented and, to a certain extent, mainstreamed early intervention and supportive services to families who voluntarily seek help or recognize the need for assistance in parenting as the result of reports of potential abuse. Some services have been school-based and others community-based. One voluntary support program that has enjoyed a more formal evolution (it has not yet been formally implemented across the provincial system) is the One-to-One Program.

The One-to-One Program was developed for children in care and has evolved to include the provision of direct services to children remaining in families where protection issues have been identified but children have not been taken into care. The program provides a One-to-One Program worker who spends a specified number of hours engaged in direct individual or group activities related to identified areas of risk or concern. The activities may involve the child, the child's family, a homemaker, and the One-to-One Program worker who addresses protection issues stemming from both the child's and the family's identified needs.

The Director may place a homemaker in the home of a dependent child who is temporarily without any person able to look after and care for him or her. Section 10(1) of the *F&CSA* provides for this intervention with or without the consent of the parent. Homemakers can also become involved in an activity-based case plan that enhances parents' self-esteem, teaches parenting and homemaking skills, and provides emotional support.

Placement Resources

Foster Care

There are three main categories of foster homes: relative, regular, and respite foster care. Regular foster care provides short-term and long-term care to children of all ages. Families providing short-term care may provide care for periods of up to one year. Long-term foster families may care for a child until he/she is ready for independence.

Potential foster parents must complete an approval process that includes criminal record checks, references, medicals and other professional reports as requested. Applicants are screened through the Child Protection Registry and must meet the housing and safety standards of the province for fostering. Newly-approved foster carers receive group training in foster caregiving skills and have an experienced foster carer provide support during an initial three-month probationary period.

Counselling and other direct services are co-ordinated and/or delivered to children in care and their families throughout the time that the child is in care. Case planning for children in care is now based on the Looking After Children Assessment and Action Records. Looking After Children is a model of foster care designed to engage the family, child in care and the worker in age-specific developmental planning and monitoring. Plans are completed for every child likely to be in care for more than six months, and are revised annually for children remaining in care for a longer term.

Regular Foster Homes

Every "active" or "permanent" foster home is assigned a Classification Level 1, 2, or 3. The classification levels have been introduced to the foster care program as one method to identify and recognize the different skill levels of caregivers, the transactional expectations of foster caregivers with respect to children in their care and to aid in making appropriate matches for placement of children and youth. The "skill rating score" which caregivers achieve with the Classification Level Assessment Tool in part determines the level. Other factors involved in the assignment of Classification Level are a) the regional needs and budget flexibility, and b) the level and intensity of care that the caregivers are willing to provide.

Respite Care

All caregivers are eligible for 24 days respite per year. Respite care is available to caregivers of children who are in care temporarily, either on a one-time-only basis or through ongoing weekend arrangements. Eligibility for foster caregivers seeking respite care is evaluated using specific assessment criteria. Respite providers are ordinarily other approved caregivers, but in some situations non-foster parents are approved after screening (Criminal Record Check and Child Protection Registry screening) and meeting other eligibility requirements. Respite care providers are compensated a specific amount that is based on the level of care the child requires.

Relative Foster Care

Relatives are often assessed to be the best caregiver option for children in care. There is a formal, but separate assessment process for relatives interested in fostering. Relatives receive the lower scale payment for providing care, and are offered the same range of supports as are available to others in the fostering community.

Provincial LAP Program

A provincial therapeutic program for children 12 years of age and younger is operated in Charlottetown and is open to eligible children anywhere in the province. This program is designed to assist families with children who display severe emotional or behaviour problems. There are five foster families currently providing services in this program. The program provides foster care for the children, counselling (individual, family, and group) for the parents while the child is in care, and follow-up services after the child returns to the natural home or to another foster family.

Children are placed in the LAP program for up to two years and can receive an additional two years of follow-up support. A full-time co-ordinator runs the program, providing support and guidance to the foster parents involved and arranging additional activities/services required for the children in care. Group counselling is offered to foster families, natural families, and to the children in the program.

Association of Foster Families

In each of the five regions of the province, local foster family associations hold monthly meetings. Membership in the Provincial Federation of Foster Families is compulsory for all foster carers on PEI. Membership in the Federation ensures insurance coverage against claims related to providing care. The Provincial Federation also puts on two major training sessions each year for foster carers in their Spring Annual Symposium and their Fall General Annual Meeting. Regional child welfare staff are also invited to these sessions.

Investigation of Allegations Against Foster Homes

PEI currently has a policy in place to address allegations against foster caregivers. With the pending implementation of a comprehensive Foster Care Manual, this area will be more specifically addressed.

Adoptions

The *Adoption Act*, the *Family and Child Services Act*, and the *Intercountry Adoption (Hague Convention) Act* govern adoptions on PEI.

Child Welfare Adoptions

The provincial adoption program is centrally administered because of its small size. Adoption services are delivered from the five Regional Health authorities across the province. Very few infants are placed for adoption; the majority of children who are placed are past infancy and have special needs. Recently, the province has been working towards the establishment of a Supported Adoption Program, but this is not presently in place. On occasion, out-of-province placements are made if a home is not available on PEI.

Private Adoptions

Private adoptions on PEI are governed by the *Adoption Act*. Private non-relative adoptions must be arranged through an adoption agent licensed by the Director. The agent is responsible for ensuring that all placement standards required by law are met. Birth parents can apply to the Director for a permit that is required to proceed with a private relative adoption. Step-parent adoptions constitute the majority of private adoptions and require a Pre-Hearing Study for Court purposes. Some private adoption processes are carried out by private social workers authorized by the Director. This function includes completing home studies, birth parent counselling, and witnessing of consents.

Family Service Agencies

The Family Agencies on PEI, who historically accomplished much of the adoption work, have discontinued this service. One agency continues to provide birth parent counselling but does not actually arrange any adoptions. There are currently no Family Agencies on PEI that are licensed to arrange private adoptions.

International Adoption

PEI is a signatory to the Hague Convention on Intercountry Adoption and has designated the Director of Child Welfare as the Central Authority for the province. There have been very few international adoptions on PEI. Private social workers complete the home studies for international adoption.

Post-Adoption Services

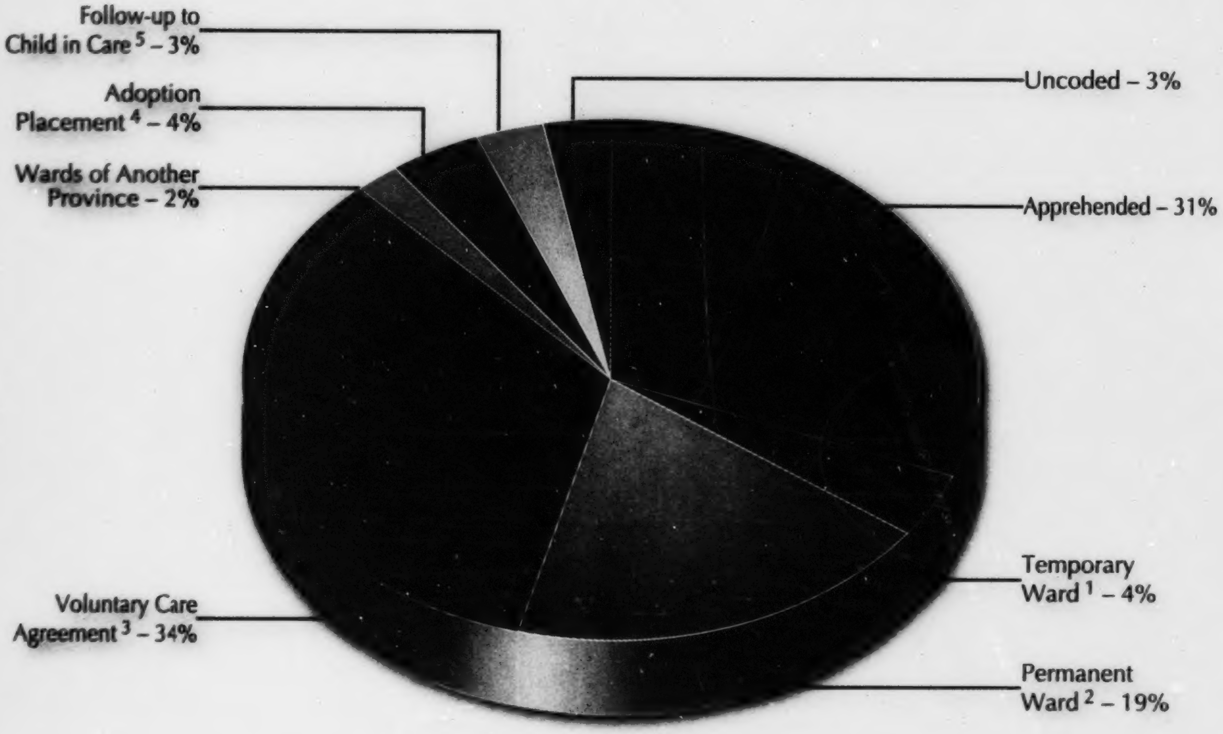
PEI established a semi-active Post-Adoption Service in 1993. Adults who were adopted as children can request searches through this service for birth parents and birth siblings. Reunions that are based on the mutual consent of the parties occur via a Reciprocal Registry. At present, there are fees for some services.

Statistics

Prince Edward Island data should not be compared with data from other jurisdictions due to the limitations outlined in the Introduction.

Figure 2.1

Children in Care by Legal Status as at March 31, 1999

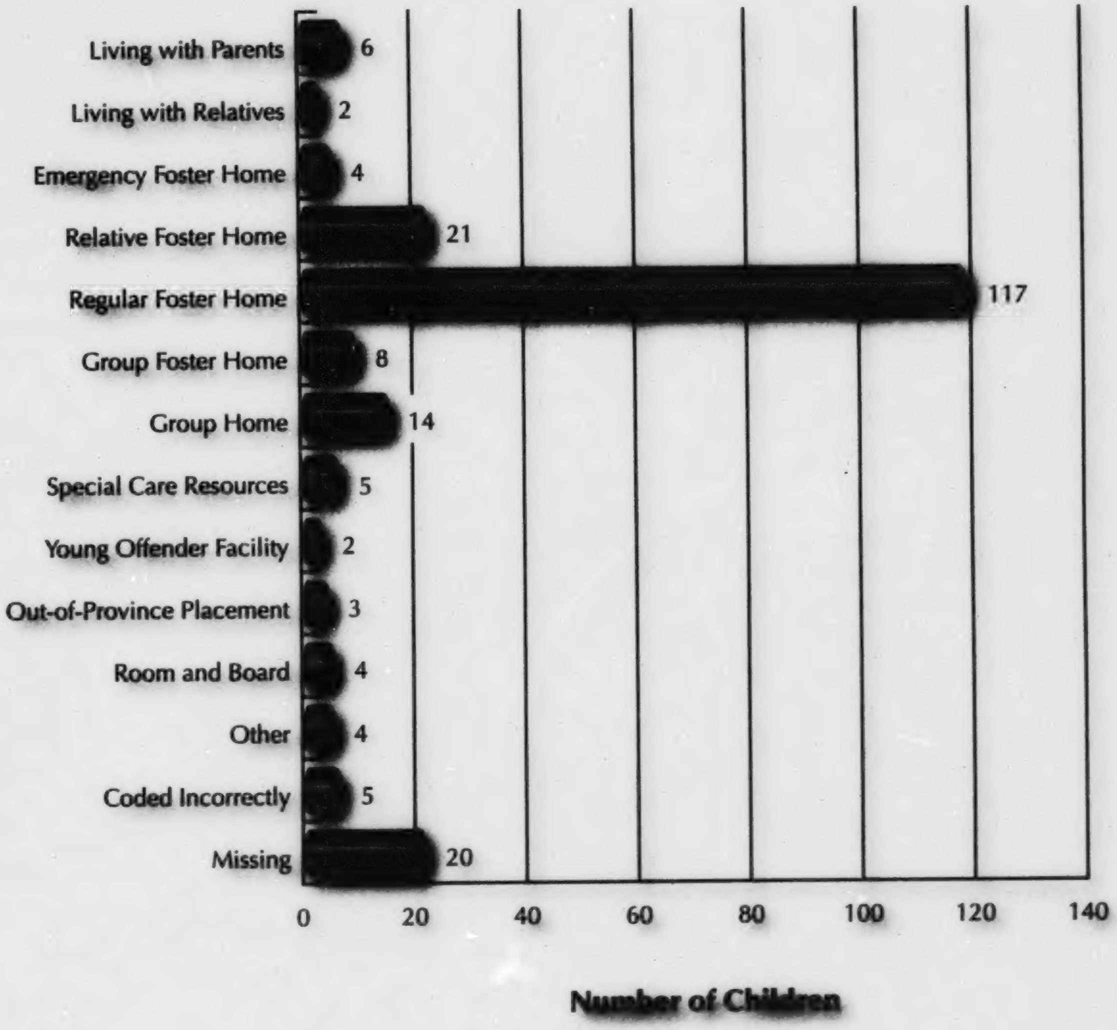


1 Includes children in care under a Temporary Order for Custody and Guardianship.
2 Includes children in care under a Permanent Guardianship Order.
3 Includes children in care under a Voluntary Agreement for Temporary Guardianship, a Voluntary Agreement for Temporary Custody, or a Permanent Guardianship Agreement (voluntary relinquishment for adoption purposes).
4 Permanent wards who have been placed in an adoptive home pending finalization.
5 Includes children who have been in care, have returned home and are receiving post-care services.

Children in care: 215

Figure 2.2

Children in Care by Placement Type as at March 31, 1999



Children in care: 215

Resource Material

Legislative Material

Health and Community Services Act. R.S.P.E.I. 1993.

Family and Child Services Act. R.S.P.E.I. 1988, c. F-2. As amended by 1990, c. 14; 1993, c. 30 and 1995, c. 1.

Adoption Act. R.S.P.E.I. 1988, c. A-4.1. As amended by 1995, c. 1 and 1996, c. 48.

Reports

Prince Edward Island Health and Social Services. *1999 Annual Report*.

Prince Edward Island Health and Community Services System. (June 1996). *PEI Foster Children's Profile, Summary Report.*

Health and Community Services, Child, Youth and Family Division. (1994-1996). *Report Card Implementation of the Youth Report.*

Prince Edward Island Premier's Action Committee on Family Violence Prevention. *Progress Report 1995–1996.*

Other

Prince Edward Island Health and Social Services Web site: **http://www.gov.pe.ca/hss/index.php3**

3

NOVA SCOTIA

Administration and Service Delivery

Administration

The Minister of Community Services is responsible for the protection of children and has the legislated mandate for the administration of the *Children and Family Services Act (CFSA)*. Designates under the Act are accountable to the Minister to ensure the delivery of the highest quality programs within the resources available. These include a range of services from interventions designed to strengthen the family unit, to the protection of children in situations of family breakdown. Reports that a child may be in need of protective services, including allegations of child abuse and neglect, are received from citizens or persons involved with children in a professional capacity. Therefore, child protection is a core service mandated under the Act.

To meet this mandate the Minister has established a network of private Children's Aid Societies, Family and Children Services agencies, and government-run district offices to deliver child welfare services across Nova Scotia. Both district offices and private agencies are accountable to meet the Department's program standards and policies.

Service Delivery Network

The Family and Children's Services Division of the Department, located in Halifax, is responsible for ensuring that child protection services and services to children in care and custody are properly delivered throughout Nova Scotia. Specifically, the Division has the mandate for policy, standards, monitoring and evaluation for child protection, children in care, foster care, children's residential facilities, adoption services and preventive services.

Child welfare service delivery for the Department of Community Services is organized within four regions: Eastern, Northern, Central and Western. Regional Administrators are responsible for all service delivery within their respective regions, and allocate child welfare program budgets from decentralized block funding provided by the Department. Each region also has a Child Welfare Specialist who reports to the Regional Administrator.

Agency functions are formally mandated by the *Children and Family Services Act*. Currently, there are a total of 20 agencies and offices delivering child welfare services. Six departmental offices report directly to a Regional Administrator. Private agencies have their own constitution and bylaws approved by Order-In-Council, and are governed by volunteer Boards of Directors. These community boards represent their communities and are accountable to the Minister and his designates under the *CFSA*.

Mi'kmaw Family and Children's Services provides child welfare and family services to First Nations families in Nova Scotia. This agency reports to a Board of Directors and is overseen by a Regional Office and the Department of Indian Affairs and Northern Development (DIAND) on program matters.

After Hours

Emergency duty workers provide child protection services after regular working hours. The emergency workers are fully qualified, registered and preferably hold agent status (see Human Resources section). Supervisory backup is always available for workers to assist in investigations and protection response; any decision to remove a child from a caretaker requires supervisory consultation beforehand.

Human Resources

In order for a social worker to be appointed as an agent of the Department, he or she must meet the qualifications outlined in Section 6(1) of the regulations to the *CFSA*. This regulation specifies that all child welfare social workers involved in direct child welfare service delivery must have the minimum qualification of a Social Work degree or the equivalent from a recognized university. Workers must also be registered with the Nova Scotia Association of Social Workers.

Whenever possible, initial caseloads are limited and are gradually increased to require more worker independence and discretion. To assist child protection workers in effectively carrying out their responsibilities, the Department provides a mandatory two-week training course. This Core Program is modelled after the Core Training Program developed by the (former) Institute for the Prevention of Child Abuse in Toronto. The Department also offers a one-week joint training program for child protection staff and police in investigation and assessment of child sexual abuse. This training program is designed to foster and encourage a co-ordinated response to sexual abuse during joint investigations.

Children's Ombudsman

A Children's Ombudsman was established in 2000 to act as an objective listener for children/youth and their care workers in Nova Scotia. The Children's Ombudsman's role preserves the hallmarks of Ombudsmanship (confidentiality, impartiality and fairness) while adopting a proactive stance and examining systemic issues that arise within the child and youth care system in Nova Scotia. The Children's Ombudsman provides an opportunity for the concerns of children/youth, youth workers, government officials and other stakeholders to be expressed and explored in an impartial arena. The Children's Ombudsman views each individual complaint as an opportunity to review and assess the care provided by government, and to further develop fairness and accountability within the child and youth care system.

The priority of the Children's Ombudsman is to reach mutually acceptable resolutions to the concerns of children/youth in care and youth workers and to mediate between the Department, facilities, and youth to preserve and uphold the rights of children and youth in care and employees of the facility. The Children's Ombudsman may recommend that the Department and/or facilities change policies, practices, processes, guidelines, regulations or laws to ensure fairness. Should it be necessary, the Children's Ombudsman can report findings and recommendations to the House of Assembly for its consideration.

Advisory Committees

The Minister of Community Services is required under Section 88 of the Act to establish an advisory committee that monitors the operation of the *CFSA* and all services related to it. The Minister appoints community members to the committee, including: parents of children who have received or may need protective services; an Agency representative; a Ministerial representative; a legal aid lawyer; two minority representatives; and up to three non-defined individuals. The committee's annual report to the Minister comments on whether the principles and purpose of the *CFSA* are being achieved.

The Children and Youth Action Committee (CAYAC) has the mandate to formalize protocols and policies that support a co-ordinated, multidisciplinary approach to services that involve children. Committee membership includes senior representatives from four departments and representatives from the Nova Scotia Youth Secretariat and Nova Scotia Sport and Recreation. The departments represented on the Committee are Community Services, Culture and Education, Health, and Justice. The goal of the CAYAC is to formalize an interdepartmental approach to facilitate the evolution of services that will improve outcomes for all children, including children and youth at risk. The Committee meets bi-weekly and reports to the Deputy Ministers of each department.

First Nations

Legislation

First Nations children are referred to specifically in Sections 36 and 68 of the *CFSA*. Section 36 (3) identifies "parties to a proceeding" and states that: "where the child who is subject of a proceeding is known to be Indian or may be Indian, the Mi'kmaw Family and Children's Services of Nova Scotia shall receive notice in the same manner as a party to the proceedings and may, with its consent, be substituted for the agency that commenced the proceeding".

Section 68 of the *CFSA* outlines the requirements for voluntary placements of children for the purpose of adoption. Subsections 11 and 12 state that any agency other than Mi'kmaw Family and Children's Services involved with the voluntary placement of an Aboriginal child for adoption must not enter into the adoption agreement, or place the child in the adoptive home until fifteen days after the agency has notified the Mi'kmaw Family and Children's Services of the potential agreement and placement.

Agencies

The Mi'kmaw Family and Children's Services is the sole agency providing child welfare and family services to all First Nations people living in First Nations communities in Nova Scotia. With two main offices located on mainland Nova Scotia and Cape Breton and satellite offices on most reserves, it operates as a private agency and is mandated by the *CFSA* to provide a full range of child protection services to 13 First Nations bands. Mi'kmaw Family and Children's Services also offers prevention, family support, and crisis and shelter programs for First Nations families on reserves. Within their resources, the agency also provides support and consultation to Mi'kmaw and other First Nations individuals and families not living in First Nations communities and to those agencies that are working with them. The Agency was established through a tripartite agreement between DIAND (Canada), the Department of Community Services (Nova Scotia) and the First Nations community through the 13 Chiefs of the Nova Scotia Bands. A committee composed of members of the three parties to the agreement meets quarterly to solve problems, negotiate protocols, and monitor and evaluate their agreements.

Definitions

Child

The *CFSA* provides the legislative basis for the provision of services to children in need of protective services. A **child** is defined under Section 3 of the *CFSA* for protection and adoption purposes to be a person under sixteen years of age.

Child in Need of Protection

Under Sub-section 22(2), a child is defined to be **in need of protective services where:**

"(a) the child has suffered physical harm, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately;

(b) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a);

(c) the child has been sexually abused by a parent or guardian of the child, or by another person where a parent or guardian of the child knows or should know of the possibility of sexual abuse and fails to protect the child;

(d) there is substantial risk that the child will be sexually abused as described in clause (c);

(e) a child requires medical treatment to cure, prevent or alleviate physical harm or suffering, and the child's parent or guardian does not provide, or refuses or is unavailable or is unable to consent to, the treatment;

(f) the child has suffered emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour and the child's parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;

(g) there is a substantial risk that the child will suffer emotional harm of the kind described in clause (f), and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;

(h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the condition;

(i) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or guardian of the child, and the child's parent or guardian fails or refuses to obtain services or treatment to remedy or alleviate the violence;

(j) the child has suffered physical harm caused by chronic and serious neglect by a parent or guardian of the child, and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;

(ja) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (j);

(k) the child has been abandoned, the child's only parent or guardian has died or is unavailable to exercise custodial rights over the child and has not made adequate provisions for the child's care and custody, or the child is in the care of an agency or another person and the parent or guardian of the child refuses or is unable or unwilling to resume the child's care and custody;

(l) the child is under twelve years of age and has killed or seriously injured another person or caused serious damage to another person's property, and services or treatment are necessary to prevent a recurrence and a parent or guardian of the child does not provide, or refuses or is unavailable or unable to consent to, the necessary services or treatment;

(m) the child is under twelve years of age and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of a parent or guardian of the child or because of the parent or guardian's failure or inability to supervise the child adequately."

Child Abuse and Neglect

Under Sub-section 24(1), a child suffers **abuse** by a parent or guardian when the child is in need of protective services within the meaning of clauses (a), (c), (e), (f), (h), (i), or (j) of the definition of a child in need of protective services, Section 22(2).

Abuse by someone other than a parent or guardian, including a stranger, is defined under Sub-section 25(1). This definition is very inclusive and is aimed at protecting all children in the community from abuse and neglect by any person, not just parents or guardians. In this Section, "abuse by a person other than a parent or guardian" means that a child:

(a) has suffered physical harm, inflicted by a person other than a parent or guardian of the child or caused by the failure of a person other than a parent or guardian of the child to supervise and protect the child adequately;

(b) has been sexually abused by a person other than a parent or guardian or by another person where the person, not being a parent or guardian, with the care of the child knows or should know of the possibility of sexual abuse and fails to protect the child; or

(c) has suffered serious emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour, caused by the intentional conduct of a person other than a parent or guardian.

Legislated Rights of Children

The *CFSA* stipulates certain legislated rights for children, including the right of any child 16 or older to be a party to a hearing unless the court orders otherwise, and the right to legal counsel on request. If the court orders it to be in the child's best interest, any child 12 or older will receive notice of a protection hearing and has the right to be made a party to the hearing and have legal counsel. Where a parent consents to an order, a child 12 and older is entitled to understand the nature and consequences of the consent, must consent to the order, and is entitled to independent legal counsel in the matter.

The Family Court or Supreme Court – Family Division is open to the public but recognizes the importance of participation by children who are involved in court matters. If the presence of the public could cause emotional harm to a child who is a witness, a participant, or the subject of the proceeding in court, the court may exclude any or all members of the public from all or any part of the hearing.

Other features of the *CFSA* include:

- Section 28 provides an alternative to protection workers to apprehend an apparently abandoned child, for a 72 hour period, while they locate a parent or relative who can assume care.
- Section 36 may include as parties in a proceeding the child or youth in care and foster parents.

Child Abuse/Neglect Protocols

Protocols that involve parties who are not directly involved in the reporting and investigation of abuse are initiated by the Department to coordinate community efforts to protect children from abuse. For example, children's services agencies usually have a physician in the community with whom they can consult on cases of suspected abuse.

The Department of Community Services has implemented "Guidelines – Child Abuse in Facilities for the Care of Children" for responding to allegations of abuse in residential facilities and "A Protocol for Investigations of Abuse in Foster Care" (see Foster Care section).

A "Domestic Violence Protocol" has been drafted for use by family and children's services agencies and transition houses. This protocol includes guidelines on risk management, case conference procedures and the handling of disclosure of sexual abuse in transition houses. Agencies and district offices are required to develop formal written protocols with transition houses for victims of family violence and with treatment programs for abusive men. This protocol is reviewed every three years and establishes a mutual understanding of roles and responsibilities with respect to children who are exposed to domestic violence.

"Administrative Guideline Concerning Allegations of Child Abuse Against Staff" is a draft protocol applicable where an allegation is made that any Department staff member has either abused a child or has failed to report an incident of suspected or alleged abuse committed by another staff member. "A Manual for Child Care Practitioners Working in Regulated Child Care" has been written by the Department of Community Services and outlines possible indicators of child abuse, legal responsibilities, and reporting policies and procedures for child care staff working in day care programs.

"Child Abuse: Procedures Manual for a Coordinated Response" was developed by the Department in 1994 in collaboration with the departments of Health and Education, the Solicitor General's Office and the Attorney General's Office to assist professionals in responding to allegations of child abuse. Local areas develop protocols that address their own needs, for example, agreements between agencies and local police forces for joint abuse investigations. Investigation protocols are described in the Investigation of Allegation of Abuse or Neglect section.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 23 of the *CFSA* states that anyone having information, whether or not it is confidential or privileged, indicating that a child may be in need of protective services, or has information of potential child abuse by any person, must report the situation to a local family and children's services agency or district office. Section 25(2) states that every person having information, whether or not it is confidential or privileged, indicating that a child is or may be suffering or may have suffered abuse by a person other than a parent or guardian, must report it to an agency. A conviction for failure to report under Section 23 or Section 25(2) will result in a fine of not more than $2,000, imprisonment not exceeding six months, or both.

Furthermore, Sub-section 24(2) states that anyone who performs professional or official duties with respect to a child and who has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse must report the suspicion to an agency. This section applies whether or not the information reported is confidential or privileged.

Penalties For Not Reporting

A conviction for failing to report under Section 24 will result in a fine of up to $5,000, imprisonment for up to one year, or both. Any person who makes a false or malicious report is guilty of an offence and upon conviction may be fined up to $2,000, imprisoned for up to six months, or both.

Investigation of Allegation of Abuse or Neglect

Who Investigates

After an allegation has been made, child protection workers in agencies and district offices are legally mandated to investigate all reports that fit the definition of a child in need of protective services. The protection supervisor may conduct a search of the Child Abuse Register at this time to determine whether or not the alleged perpetrator has been recorded for past abuse. The worker must assess the immediate safety or risk of future harm to the child plus the validity of the allegation to determine the need for child protective intervention and/or service. Life-threatening situations must be investigated within one hour; dangerous but not life-threatening situations within the same working day; damaging but not life-threatening situations within two working days and low-risk/no-risk situations within 21 working days. The police are generally notified of all reports of abuse that have been received.

Warrants

When a child is in immediate danger and access to the child is refused by a caregiver, the worker may seek a warrant from a judge. This warrant authorizes the worker to conduct a search of the premises using force if necessary, conduct a physical exam of the child, interview the child, search the premises for evidence and where necessary, take the child into care. A worker may, without a warrant, take a child into care where there are reasonable and probable grounds to believe the child is in immediate need of protection.

Protocols

To ensure an arrangement of mutual reporting and full disclosure of all pertinent information during an investigation of suspected child abuse, the Department of Community Services has established several protocols and guidelines to be followed by all those involved. The Department has established the "Child Abuse Protocol", which is used by each investigative team consisting of a police officer and a child protection worker investigating physical and sexual abuse cases. It is recommended practice in the protocol that individuals who have received specialized training be assigned to conduct such investigations.

The Child Abuse Protocol includes recommended procedures to be followed by agencies and district offices with respect to interventions and guidelines for interviewing children. For example, the protocol outlines "The Step-Wise Interview: A protocol for interviewing children" which is the recommended procedure for interviewing alleged victims of abuse. Another recommended procedure is the video or audiotaping of the joint police/worker interview with the child.

Mandatory Medical Examinations

A medical examination of the child is conducted at a local hospital or by a designated physician within 24 hours from when physical abuse is suspected or confirmed. In cases of suspected sexual abuse, workers access medical assessments based on the unique circumstances of each case. Agencies and district offices are encouraged to develop emergency response capability with local hospitals or physicians to ensure children's safety and timely medical evidence collection. The investigative team provides information about the circumstances of the alleged abuse to physicians who then provide a written medical report within three days of the medical examination.

There is a central Child Abuse Team at the I.W.K. Children's Hospital in Halifax. The team provides consultation to all agencies in the province; however, most of their involvement is with local child abuse cases.

Risk Assessment/Risk Management

Child protection workers use a number of tools and guidelines to assist in investigation, evaluation and case planning. The risk assessment and management model used by the Department is based on the Washington State Risk Assessment Model and has been adapted for use in Nova Scotia. The "Initial Safety Assessment Checklist" is used at the point of intake to establish the immediate safety of the child and to help with decisions regarding placement. The risk management system is used to inform the worker's professional judgement about the potential for future harm to a child by a caregiver. The model helps to form an objective assessment of the level of risk while recognizing family strengths that can contribute to the reduction of risk to children in the case planning process. The model also assists workers in making informed decisions about the choice of placement and services for the child, and in justifying and documenting decisions. Steinhauer's *Guidelines for Assessing Parenting Capacity* may be used in case planning to assist workers in gathering important information about caregivers' strengths and weaknesses.

The child protection worker gathers and documents all the evidence from the investigative process to be used in an evaluation of the case. The evaluation process, including the decision to proceed with or suspend an investigation, is then completed in consultation with the supervisor and may include a risk management conference. The conference, attended by the worker, a casework supervisor and at least one social worker who does not have a direct responsibility for the case, systematically reviews the situation of the child and the family to decide on future activities. A risk management conference meeting must be held in developing a case plan, deciding whether to take a case to court and take a child into care, or return a child home.

Departmental Role in Investigation of Third Party Abuse

Protection workers are required to receive and investigate reports that allege abuse of a child by a third party (someone other than a parent or guardian). Agency workers are involved in cases of third party abuse or neglect to determine if the child is in need of protective services. The agency must investigate the report with the police to determine if the parent or guardian is responsible in some way for causing or allowing the child to be in a position where he/she was abused. The agency/district office must also determine if the parent is willing to accept responsibility for ensuring that the child will continue to be protected, including making use of available community resources to assist the child's recovery from the assault. If the agency is not convinced that the parent is acting to protect the child, or making use of available community resources, it may determine that the child is in need of protective services. The agency must determine what risk this person may pose to other children including his or her own. The agency must also make a determination on whether or not to apply to the court under Section 63(3) for a judicial finding that, on the balance of probabilities the person has abused a child and should therefore be included in the Child Abuse Register.

Investigation of Child Deaths

The circumstances relating to any child who dies as a result of child abuse while receiving child protective services are subject to a mandatory departmental administrative review. This internal review is conducted by the Child Mortality Committee, which is composed of Department administrators and can include a medical consultation/review as part of the process. The committee is responsible for a full review of the agency's role at the time of death including policy, procedure and any action taken by the agency or staff. The review is not intended as a substitute for any external or independent review. The committee submits a report of the review's findings to the Deputy Minister and may recommend changes to agency procedure or Department policy where warranted.

Child Abuse Register

Purposes of Register

The Child Abuse Register is maintained and administered by the Minister of Community Services. The Register is a database of information regarding judicial findings of child abuse; entries contain the abuser's identity and identifying information. Victim and perpetrator information is protected and accessible only for research purposes in a non-identifying format. The Child Abuse Register has three main purposes:

1. To assist in the protection of children (primary purpose).
    (a) where a children's services agency or district office is conducting an investigation to determine if a child is in need of protective services;
    (b) for the screening of prospective foster parents, adoptive parents or persons caring for or working with children, including volunteers.
2. To assist in identifying persons who may pose a risk for future harm to children.
3. For the purposes of research in the areas of:
    (a) children in need of protection;
    (b) children who are subjected to abuse;
    (c) the families of children described above; and
    (d) the nature and extent of child abuse.

Rights of the Registered Person

A person whose name is entered in the Child Abuse Register must be notified of the entry by registered mail in order to protect the confidential nature of the information. The registered person has the right to inspect the information relating to himself/herself that has been entered in the Register, including the report filed by the clerk of the court that made the finding. The registered person has the right to appeal this decision. Child Abuse Register files are permanent unless they are appealed, expunged, or the original findings quashed or reversed.

Access to Information

Under Section 66(3) of the *CFSA*, the Minister may consent to the disclosure of information contained in the Child Abuse Register to agencies and/or police who are jointly investigating cases of child abuse. Another purpose of the Register is to provide information to assist in the screening of persons applying to be adoptive parents, foster parents, caregivers or volunteers working with children. Section 66(4) of the *CFSA* requires that information received from the Child Abuse Register must be kept confidential and be used only for the purposes stated in the required request form. Any person or agency found in contravention of Section 66(4) is guilty of an offence and is liable to a fine of up to $5,000 or to imprisonment not exceeding one year, or both.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers and the child, in some cases, or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

If services cannot be provided to the child and family with the child remaining in the home, a parent may enter into an agreement with the Director to have the child temporarily placed in a foster home, group home or residential facility. This **Temporary Care Agreement** allows time for families to solve problems that could result in the abuse or neglect of the child. Parents can transfer the temporary care and supervision of the child to the Director for up to six months while retaining guardianship. The term of a Temporary Care Agreement is six months and it can be extended to a maximum of 12 months. A Temporary Care Agreement is made with the intention that parents remain involved with the child who will then return to the parents during the term of the agreement or at its conclusion.

A parent or guardian who is unable to meet the needs of a child with special needs may enter into an agreement with the Director for the care and custody of the child or for provision of services to meet the child's needs. A special need is defined in the *CFSA*'s regulations as "a need that is related to, or caused by, a behavioural, emotional, physical, mental or other handicap or disorder". This includes special needs related to or caused by social, psychological and environmental circumstances. A **Special Needs Agreement** can be made for a period of up to one year and may be renewed with the approval of the Minister for periods of up to one year each.

Court-Ordered Protection

When an abused or neglected child is believed to be in need of protective services and is apprehended, or when existing voluntary service options are not feasible, have expired or have been breached, an application is made to the Family Court or the Supreme Court – Family Division for an order regarding care of the child. Sections 39-41 and Section 45 of the *CFSA* set out specific time frames within which court decisions are to be made after the court process has begun. When the court determines that the child is in need of protective services, it may make one of several orders: a Supervision Order; a Temporary Care and Custody Order; or a Permanent Care and Custody Order.

A **Supervision Order** stipulates the terms and conditions of the care and supervision of a child who may remain with a parent or guardian, or with an agreed-upon caregiver under the supervision of the agency. A Supervision Order may not extend beyond 12 months from the date of the initial order regarding a child under the age of six years. A child between six and 12 years of age can remain under a Supervision Order for a maximum period of 18 months.

Under a **Temporary Care and Custody Order** a child is placed in the care of an agency for a specified period of time. A Temporary Care and Custody Order may not extend beyond three months for a child under the age of three years. A child between three and 12 years of age can remain under this Order for up to six months and the maximum duration for a child over the age of 12 years is 12 months.

Under a **Permanent Care and Custody Order**, the agency becomes the child's legal guardian until the child reaches the age of 19 years, marries or is adopted. Any party to the court proceeding that results in a Permanent Care and Custody Order (including the subject of the order if over 16 years of age) may apply to the court to terminate the order or vary an access clause.

In some situations, instead of removing the child from his or her home, the worker may petition the Family Court or Supreme Court – Family Division for a **Protective-Intervention Order** under Section 30 of the *CFSA*. Protective Intervention Orders direct the abusive caregiver (or any person) to cease to reside or to not contact or associate in any way with a child for a period of up to six months. The court can terminate, vary or extend the order for periods of up to six months. Any person who contravenes a Protective Intervention Order is guilty of an offence and upon summary conviction is liable to a fine of not more than $5,000, or to imprisonment for a period not exceeding one year, or to both.

Section 21 provides for the appointment of a mediator with the consent of all parties at any time before or during a child protection proceeding. Active proceedings can be stayed for up to three months while the agency and the parent or guardian attempt to resolve matters relating to the child outside of the court.

Appeals

Any party to an order made under the *CFSA* can appeal it by filing a notice with the Appeal Division of the Supreme Court of Nova Scotia within 30 days of the order. The court must hear the appeal within 90 days of the applicant filing notice.

Extended Care

Under Sub-section 48(1) of the *CFSA*, the permanent care and custody of a child with a disability or who is pursuing an education may be extended by the court until the child reaches 21 years of age. A child who is 16 years of age or older and has status under a Special Needs Agreement may extend the agreement with an agency or the Director for the provision of services until age nineteen.

Support Services

Voluntary Intervention Services

Voluntary services are available for up to three months, and may be extended in some cases. A range of services designed to increase the family's level of functioning and reduce the risk of abuse or neglect is available through child welfare agencies. Agencies may provide in-house supports or contract existing community services to promote family preservation, teach parenting skills, provide counselling or facilitate attendance in programs.

In child protection cases, the worker can arrange for mediation or access services that are provided through the agency. A mediator can be appointed to resolve any conflicts relating to agreements for caregiver services entered into by the Director and the child's parents or guardian. Access services provide qualified workers to supervise contact between children and parents who may pose a risk. Both these programs are designed to enhance family preservation while minimizing risk of harm to children.

An in-home support program provides support to families who are caring for mentally or physically handicapped children who meet the eligibility criteria. This program is available for all children for whom there are no protection concerns, regardless of legal status. Funding covers extraordinary expenses related to a child's care as well as respite monies.

Placement Resources

Foster Care

Foster family placements are the most commonly used alternative form of care for children residing outside of their birth family. District Offices of the Department of Community Services and Child and Family Services agencies provide approval and support services to foster families. Recruitment and training services are delivered by the Department of Community Services through Regional Placement Resource Teams within the four regions of the province.

The Department of Community Services provides overall policy, procedures, and guidelines for the operation of the Foster Care Program. Recommendations for policy development are determined by the Provincial Joint Committee on Foster Care, consisting of equal representation from the four regions in social work and supervisory staff, foster families, and provincially, the Federation of Foster Families of Nova Scotia, and the Child in Care Program. It is chaired by the Provincial Coordinator of Foster Care.

There are three categories of foster care in Nova Scotia: regular foster care homes, parent counsellor homes and special relative/non-relative foster homes.

Regular Foster Care Homes

These foster families have been approved by agency and district office staff to provide care to children and youth. They receive daily maintenance monies and reimbursable child in care expenses under the Child in Care Program.

Parent Counsellor Homes

These foster families receive additional training and therapeutic support to provide care for children and youth with a high level of special needs. They receive a monthly honorarium, as well as the per diem child in care rate when a child or youth is placed in their home. The regions administer the parent counsellor program.

Special Relative/Non-Relative Foster Homes

This category includes families who are friends or relatives of a child in care and have been approved specifically for a child or sibling group. These are child- or youth-specific homes that were initiated through child protection and eventually approved through the Foster Care Program.

Introductory Level of Care

Basic mandatory core training is the fundamental component necessary to meet the requirements for the introductory level of care, and it consists of: Foster Family Orientation Program, Non-Violent Crisis Intervention Training, and Sensitivity Training for Foster Families. Participation in training is mandatory for all regular and parent counsellor families.

The Orientation Program for Foster Families is essential to the pre-assessment process and is provided to all potential foster parent applicants. The program is presented jointly by foster care workers, social workers, and trainees who have been approved by the Federation of Foster Families.

At the completion of the Orientation Program for Foster Families, foster parent applicants then proceed with their application to foster. Criminal record checks, child abuse register checks, references, medical reports and any other professional reports are requested as the foster care worker proceeds with the foster family home study and the family assessment process. Areas of assessment include health of applicants and other family members, financial management, problem-solving abilities, attitudes and practices towards discipline, parental abilities and relationships, and the general attitudes of children and youth within the current family structure.

Final foster family approval results in the placement of a child or youth. The remainder of the basic mandatory core training must be completed within a two-year period.

Review/Evaluation

The foster home is reviewed six months after approval and annually thereafter. The review includes adjustments to fostering, changes in the family circumstances, and any problems experienced during placement. If deemed necessary, help is provided to assist in the development of family strengths and coping skills.

Appeals/Complaints

Complaints by foster parents who are dissatisfied with a service or case decision are resolved through the agency/district office appeal policy in the complainants' jurisdiction. The Federation of Foster Families of Nova Scotia can offer support to foster parents during the appeal process.

Federation of Foster Families of Nova Scotia

The Federation of Foster Families of Nova Scotia is an organization for foster families run by foster parents to serve and support one another as caregivers to children requiring substitute care. The organization represents approximately 700 approved foster parents in the province and is funded through the Department of Community Services. The Federation, the Executive Director, the office staff, and the local foster family associations promote quality foster care via advocacy, education, information sharing, policy recommendations, and maintaining the lines of communication between foster families, agencies/district offices, and government.

Programs are administered by the Federation of Foster Families of Nova Scotia and funded by the Department of Community Services.

The administration and delivery of training, as required for the Introductory Level of Care, is provided by trainers approved by the Federation of Foster Families of Nova Scotia. Expenses for training are reimbursed to foster families through the Federation.

Allegations of Abuse or Neglect

The protocol for the investigation of allegations of abuse and/or neglect in foster care establishes the procedures for the child protection investigation. Investigations are conducted by an agency other than the home agency to avoid a conflict of interest or perceived bias. Support can be offered to foster families undergoing an investigation from the foster care worker or through the Foster Allegation Support Services Program provided by the Federation of Foster Families of Nova Scotia.

Residential Care

There are 31 residential child-caring facilities in Nova Scotia. These residential programs serve as few as three children/youth to as many as 16, with the majority providing beds for between eight to 12 individuals. These facilities serve troubled children/youth in the care of a child welfare agency who are primarily between the ages of six and 18 years (inclusive) with the majority of the children/youth between ages 12–16. Services are provided using a youth-care model, with rotating staff. Most of these facilities are operated by private, non-profit organizations in partnership with the Department of Community Services. A smaller number are operated by private for-profit organizations on a fee for service basis.

Adoptions

All adoptions are governed by the *CFSA*.

Agency-Facilitated Adoptions

Nineteen publicly funded agencies and district offices of the Department of Community Services provide adoption services in Nova Scotia. The majority of children placed for adoption are older with special placement needs, with few infants available for placement. Subsidies are provided to adoptive families of children in care and custody who need financial assistance, or when the child is difficult to place because of emotional, behavioural, physical or cognitive problems.

Private Relative Adoptions

Private relative adoption services are provided by 17 of the 19 publicly-funded agencies and district offices. Private relative adoptions are initiated by the birth parent of a child who wishes their spouse or common law partner to adopt the child, or by the relatives of a child who was placed with them by the birth parents. If neither of the adoptive parents is a birth parent, or the matter is contested, the agency will conduct a home study and make recommendations regarding the home's suitability to the Director of Family and Children's Services. People who wish to initiate a private relative adoption in Nova Scotia should obtain the services of a private lawyer to assist them. The agencies are not involved in uncontested step-parent adoptions.

International Adoptions

International adoption services are provided by 18 of the 19 publicly-funded agencies with the home studies completed by private practitioners on a fee-for-services basis. The Hague Convention on Intercountry Adoption was implemented in Nova Scotia on October 1, 1999.

Post Adoption Services

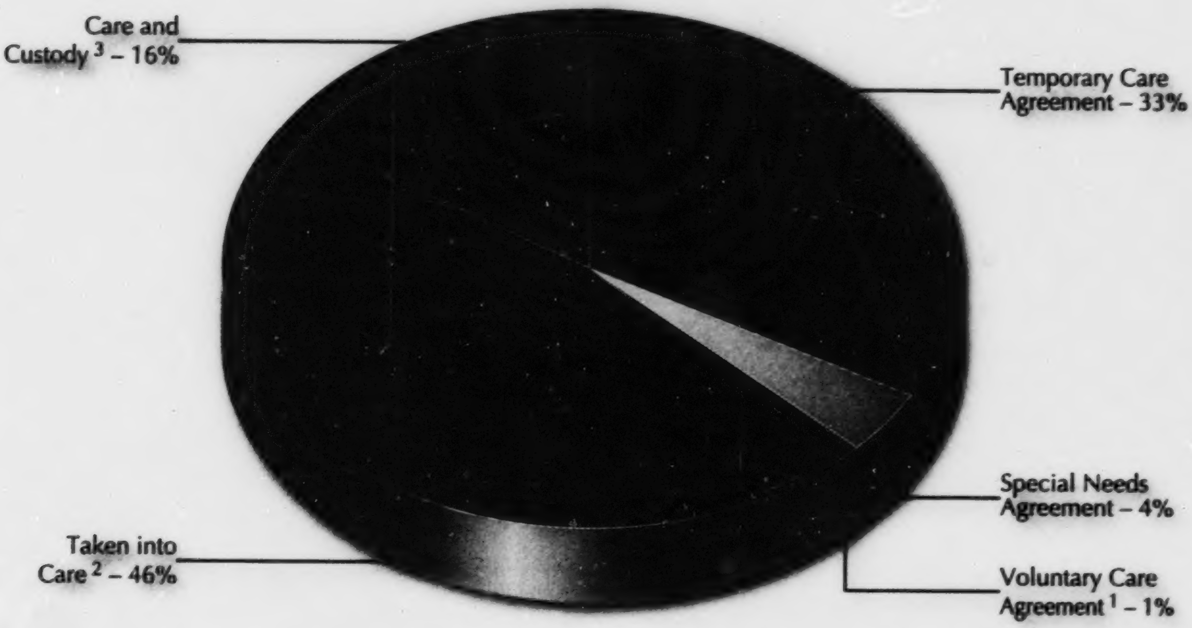
The *Adoption Information Act*, proclaimed January 1, 1997, establishes a mechanism whereby adult adoptees, birth parents and adult birth siblings may request that a discreet inquiry be conducted to locate an adult adoptee, birth parent or birth sibling for the purpose of exchanging identifying information or facilitating contact with consent. The Act establishes in law the existing passive adoption registry whereby adult adoptees, birth parents, birth siblings and relatives can register their desire for a reunion. There is no fee for this service.

Statistics

Due to the limitations noted in the Introduction, Nova Scotia data should not be compared with data for other jurisdictions.

Figure 3.1

Children Brought into Care by Legal Status, April 1, 1998 to March 31, 1999



1 Child voluntarily given up for adoption.

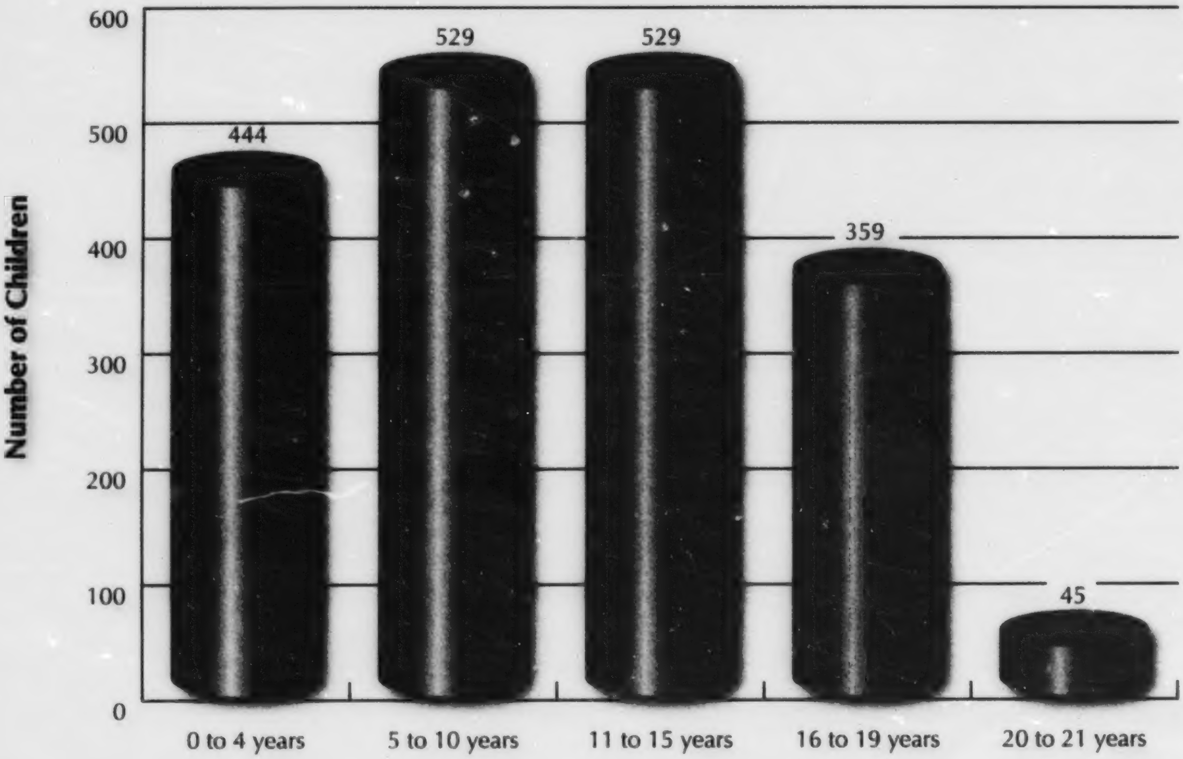
2 Includes all children taken into care, i.e., those under court application, a Supervision Order or a Temporary Care and Custody Order.

3 Children in care under a Permanent Care and Custody Order.

Children brought into care: 1,328

Figure 3.2

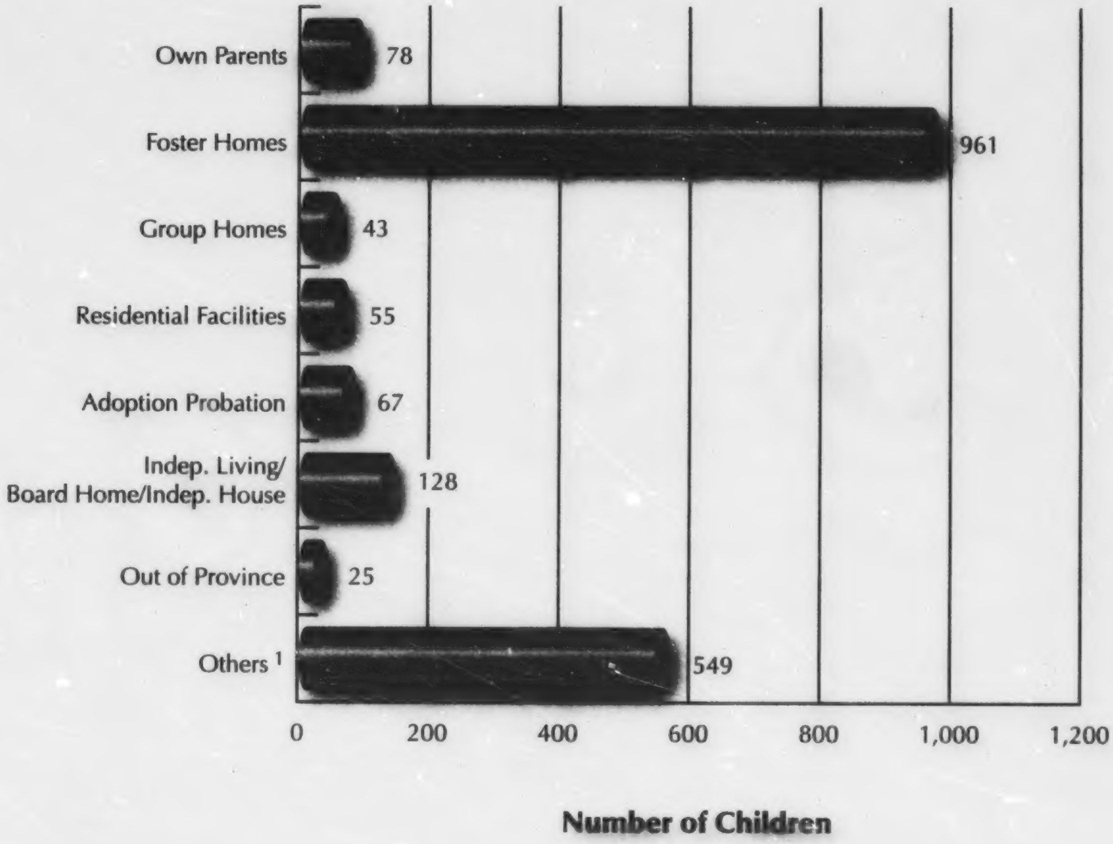
Children in Care by Age Group as at March 31, 1999



Children in care: 1,906

Figure 3.3

Children in Care by Placement Type as at March 31, 1999



1 Includes SOS Village, YOA Community Facility and other placements.

Children in care: 1,906

Resource Material

Legislative Material

Children and Family Services Act. Statutes of Nova Scotia. 1990, c. 5 as amended by 1994-95, c. 7; 1996, c. 10.

Adoption Information Act, Statutes of Nova Scotia, 1993, c. 3.

Ombudsman Act. Statutes of Nova Scotia, 1970-71, c. 3, s. 1.

Reports

Nova Scotia, Department of Community Services. *Annual Report 1998.*

Mi'kmaq Family and Children's Services. *Tenth Annual Assembly Report 1995.*

Other

Nova Scotia, Department of Community Services, *"Child Protection Services Manual" 1996.*

Nova Scotia, Department of Community Services, *"Foster Care Manual"* 1998.

Nova Scotia Department of Community Services Web site: **http://www.gov.ns.ca/coms/**

4 NEW BRUNSWICK

Administration and Service Delivery

Administration

The Minister of the Department of Family and Community Services, under the authority of the *Family Services Act*, is responsible for investigating all reports of suspected cases of child abuse and neglect in the province. This responsibility is delegated and carried out by authorized employees of the Minister, who are referred to as child protection workers.

The Family and Community Social Services Division manages and delivers all child and family services mandated under the *Family Services Act (FSA)*. The Division is co-ordinated and directed by the Department's head office, located in Fredericton. The head office of the Division is responsible for policy, interpretation of legislation and program revision in the following areas of children's services: child protection services; one parent services; community services to special needs children; adoption; child care; and child placement facilities.

The Family and Community Social Services Division also chairs an Interdepartmental Committee on Family Violence whose mandate is to monitor, recommend and/or co-ordinate governmental initiatives related to family violence issues.

Service Delivery Network

Most child and family services are delivered directly from 22 delivery sites in seven regions located throughout New Brunswick. Some services are provided through contracts with private agencies and individuals. Each of the seven regions has a Regional office that is managed by a Regional Director who reports centrally to the Executive Director, Regional Social Services, Family and Community Social Services Division. Each of the four larger regions (Fredericton, Saint John, Moncton and Acadie-Bathurst) has a Children's Services Program Manager who reports to the Regional Director. Child protection supervisors in the four larger regions report to the Program Managers of their respective programs. In smaller regions where there are no Program Managers the supervisors report directly to the Regional Director.

Each region has a Child at Risk Team (CART). This team serves to provide a forum for inter-agency collaboration and partnership in the provision of services to children at risk of abuse and neglect. The team also has an advocacy function and a public education role. CART membership includes representatives from Family and Community Services, police, probation, education, mental health, physicians, public health, and income assistance. Each CART serves to oversee regional co-ordination of service delivery to children at risk of abuse and neglect. CARTs are intended to complement existing inter-agency linkages and interaction and increase awareness and understanding of each partner's role in service provision.

After Hours Emergency Social Services (AHESS)

A toll-free telephone line responds to requests from the public for services from the Department of Family and Community Services. The AHESS is a centralized service that provides province-wide screening and referral of calls from 5:00 P.M. to 8:30 A.M. during weekdays, and on a 24-hour basis on holidays, storm days and other times when the regional office is closed.

If an after-hours call for a child protection concern requires immediate attention, the caller is referred to the regional on-call social worker with the Family and Community Social Services Division. An on-call social worker is available in each region after hours and during weekends and holidays. The regional on-call social worker is available to do an on-site response and assessment when necessary and will intervene to resolve an emergency.

Human Resources

The minimum education requirement for social workers is a Bachelor of Social Work degree. All social workers assigned to child protection must have at least six months prior experience in social work practice.

The Department of Family and Community Services provides a training program for workers that includes four modules: intake, investigation, court, and ongoing services. In addition, certain staff who have received special training or have significant experience in dealing with victims and/or perpetrators of child abuse provide direct client service in either individual or group counselling.

Child Advocate

New Brunswick does not have a child advocate.

First Nations

Legislation

The child welfare services on First Nations reserves fall within the mandate of the *FSA*. There are protocols in place which address the linkages between First Nations child welfare services on reserve and services which fall under provincial jurisdiction. Child welfare services on reserve are provided under a Tripartite Agreement signed by Family and Community Services, Indian and Northern Affairs Canada and each First Nations Child Welfare Agency.

Agencies

All of the province's 15 First Nations have signed agreements that establish social service agencies within individual native communities to deliver their own delegated child and family services. All Aboriginal people living off reserves in New Brunswick receive services from the regional office in their area.

Definitions

Child

In the *FSA*, which includes adoption and child protection provisions, a **child** is defined under Section 1 as "any person who is, or who appears to be, under the age of majority (i.e., under 19 years)". However, regulations stipulate that for child protection purposes, a child means a person actually or apparently under the age of 16 and includes a disabled person actually or apparently under the age of 19.

Furthermore, under Section 1 of the Act, the definition of a child includes: "an unborn child; a stillborn child; a child whose parents are not married to one another; a child to whom a person stands in loco parentis, if that person's spouse is a parent of the child; when used in reference to the relationship between an adopted person and his birth mother or birth father; a person who has attained the age of majority".

Child in Need of Protection

Under Section 31 of the *FSA*, the criterion for the Minister to initiate an investigation is defined as: "**The security or development a child may be in danger when:**

(a) the child is without adequate care, supervision or control;

(b) the child is living in unfit or improper circumstances;

(c) the child is in the care of a person who is unable or unwilling to provide adequate care, supervision or control of the child;

(d) the child is in the care of a person whose conduct endangers the life, health or emotional well-being of the child;

(e) the child is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of such treatment;

(f) the child is living in a situation where there is severe domestic violence;

(g) the child is in the care of a person who neglects or refuses to provide or obtain proper medical, surgical or other remedial care or treatment necessary for the health or well-being of the child or refuses to permit such care or treatment to be supplied to the child;

(h) the child is beyond the control of the person caring for him;

(i) the child by his behaviour, condition, environment or association, is likely to injure himself or others;

(j) the child is in the care of a person who does not have a right to custody of the child, without the consent of a person having such right;

(k) the child is in the care of a person who neglects or refuses to ensure that the child attends school; or

(l) the child has committed an offence or, if the child is under the age of twelve years, has committed an act or omission that would constitute an offence for which the child could be convicted if the child were twelve years of age or older."

Child Abuse and Neglect

Although formal definitions of abuse and neglect are not stipulated under the *FSA*, the inter-departmental *"Guidelines for Protecting Child Victims of Abuse and Neglect"* (see the section on Child Abuse and Neglect Protocols) provide the following working definitions:

1. Physical abuse refers to all actions resulting in non-accidental physical injury, from bruises and cuts to burns, fractures and internal injuries.
2. Sexual abuse refers to any sexual acts involving a child and a parent/caretaker, any person in a position of trust, and any other adult.
3. Physical neglect is failure to provide for a child's basic needs and appropriate level of care with respect to food, clothing, shelter, health, hygiene and safety, as determined by the community's minimum level of care standards.
4. Emotional abuse refers to the failure of the parent/caretaker to provide adequate psychological nurturance necessary for a child's growth and development.

The above definitions provide a framework for the mandatory intervention by responsible agencies and individuals in situations of child abuse. Because the primary responsibility for the care and development of children is entrusted to parents/caretakers, the definitions focus on the behaviours of individuals in relation to children in their care.

Legislated Rights of Children

Section 6(1) of the *FSA* states: "In the exercise of any authority under this Act given to any person to make a decision that affects a child, the child's wishes, where they can be expressed, and where the child is capable of understanding the nature of any choices that may be available to him, shall be given consideration in determining his interests and concerns, and the interests and concerns of the child shall be given consideration as distinct interests and concerns, separate from those of any other person."

Child Abuse/Neglect Protocols

To operationalize the province's commitment to work cooperatively in addressing the problem of child abuse and neglect, the Child Victims of Abuse Protocols were issued in 1995. These protocols apply to staff working in five provincial government departments as well as Early Childhood Development staff and physicians. These protocols provide direction to those organizations and professionals who have a responsibility for children and an obligation to protect them from abuse and neglect. The protocols provide an outline of the law in New Brunswick covering child abuse and neglect as well as guidelines for recognizing, reporting and managing child abuse and neglect.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Under Sub-section 30(1) of the *FSA*, anyone who has information causing them to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated or otherwise abused must report that information directly to child protection authorities. A person who reports suspected abuse/neglect to other authorities (e.g., health personnel, police) is advised to also notify child protection authorities. Although services can be provided under the Act to any child, mandatory reporting in suspected child abuse and neglect situations is limited to children under the age of 16 and disabled children under the age of 19. Reporting of cases involving children between the ages of 16 and 19 should be done with the child's consent.

All persons are required to report a suspicion of abuse or neglect, including professionals who encounter abuse and neglect in carrying out their duties or within a confidential relationship. Solicitor-client privilege is the only confidential relationship exempted from this duty. No legal action can be taken against people who report when they act in good faith.

Penalties for Not Reporting

Under Sub-section 30(3), any professional who receives such information in a professional capacity and fails to report may be charged with an offence under the Act. Section 30(3.1) states that proceedings with respect to an offence under Sub-section (3) may be instituted at any time within six years after the time when the subject matter of the proceedings arose. Those found guilty may be subject to a fine or jail term. False or malicious reports by any individual will result in a fine or jail term.

Under Sub-section 30(4), the Minister of the Department of Family and Community Services may require an investigation by any professional society, association or other organization authorized under the laws of the province to regulate the professional activities of a person failing to report.

Investigation of Allegation of Abuse or Neglect

All child abuse and neglect reports are directed to the Access and Assessment Unit, where a preliminary assessment determines if the child's security or development may be in danger. If it is determined that the child's security or development may be in danger, the Department proceeds with an investigation. If it is determined that the referral does not warrant an investigation, the screening worker advises the referral source of that decision and may suggest other options, including referral to another agency. Where there is reason to believe that the physical safety of a child is threatened, the situation is investigated immediately in accordance with area practice.

Who Investigates

Police and Child Protection Services work collaboratively in order to meet the requirements of both the *Criminal Code of Canada* and the *FSA*. The child protection investigator contacts the police immediately in all cases of sexual abuse and other child abuse cases where an offence under the *Criminal Code* is suspected. When police receive a report concerning allegations of a child being abused or neglected, they report the allegation to Child Protection Services. The police and Child Protection Services then determine whether a joint investigation should be initiated.

In most instances, the Department of Family and Community Services is required to complete an investigation within one month if there is evidence that a child's security or development is in danger. Under the *FSA*, the findings and conclusions of the investigation are communicated to the parent, the child (if appropriate) and to the alleged perpetrator.

Warrants

Where a child's security or development is believed to be in danger, a worker is authorized under Sub-section 33(1) of the *FSA* to seek a warrant to enter or search any premises or area to remove (apprehend) the child. Where the child is believed to be in immediate danger, the Act also permits the worker to enter any premises without a warrant to search for and remove the child. This provision is used only where the physical safety of the child is threatened and any delay in removing the child could result in injury. In any apprehension, the worker may request police assistance and use force if necessary.

Order for Removal of a Child

Where the Minister determines to place a child under protective care and the parent or any other person refuses to release or provide access to the child, a court order to remove the child may be sought.

In intra-familial abuse situations, the police/child protection investigator team will attempt to remove the offender from the home instead of removing the child. Methods which may be used to achieve this are:

- securing a voluntary agreement by the suspect to leave;
- laying of a criminal charge with a "no contact" order as a condition of release before a court hearing takes place; or,
- applying for a warrant under the *FSA* for the removal of the offending person until the application for a Protective Intervention Order can be heard.

Mandatory Medical Examinations

When assessing the child's immediate safety, the investigating worker must arrange, in collaboration with the parents, to have the child seen by a physician immediately if there are physical symptoms of abuse or neglect or there is reason to believe there may be physical evidence where visible injuries are not apparent. The worker must also inform the physician and the parents or guardians that the worker is required to speak with the physician and receive a written report of the physician's findings.

Risk Assessment/Risk Management

When assessing the child's immediate safety, the investigating worker uses an Immediate Safety Assessment Instrument in consultation with his/her supervisor. The Immediate Safety Assessment focuses on the present situation and does not attempt to predict the occurrence of future harm to the child. Immediate safety may be reassessed at any time during the investigation.

A comprehensive risk assessment is conducted towards the end of the investigation. This assessment must be completed on all substantiated referrals and on all referrals that require an in-depth evaluation. In conducting a comprehensive risk assessment, the social worker estimates the probability of re-abuse or harm in the future by using the Risk Management System. The Risk Management System is based on the New York State model and has been adapted to New Brunswick's legislation and service delivery system.

Departmental Role in Investigation of Third Party Abuse

Referrals of extra-familial child abuse (involving persons other than parents, caretakers or other persons residing in the household of the child) are assessed and investigated by the Department of Family and Community Services. The role of Child Protection Services is to assure that the victim and other children will be protected from further harm inflicted by the alleged perpetrator. The worker must determine whether parental neglect or lack of appropriate supervision were factors in the abuse and must also assure that the victim has access to and receives appropriate treatment and support services to overcome the effects of the abuse.

Investigation of Child Deaths

In New Brunswick, the death of a child is reported to the Chief Coroner or the local coroner when the death was sudden or unexpected, or occurred under conditions that the coroner decides may require an investigation into cause or circumstances. If the family of the deceased child is receiving services from the Department of Family and Community Services, the coroner or the police assisting the coroner under the provisions of *The Coroners Act* are required to report the death to the Department. Complete autopsies and full body x-rays are done for all child deaths that are investigated by the coroner. After the autopsy report is complete and other reports have been received, the coroner decides if an inquest is necessary.

The Department of Family and Community Services is notified of the deaths of children under the age of 19 years who received child welfare services during the year prior to death. Deaths involving suspicious circumstances, child abuse or the public interest are reviewed at the discretion of the Regional Director. In cases where the cause of death is not clear, an internal departmental review is usually done. The internal review is completed within 30 days and then forwarded to the central child welfare office and from there to the Child Death Review Committee (CDRC).

The Minister of Family and Community Services instituted the CDRC in 1998 to focus on the services provided to the child by the Department. Reports are written concerning each investigation and recommendations are presented to the

Minister responsible for child welfare services. The recommendations that relate to relevant protocols, policies, procedures, standards and legislation, linkages and co-ordination of services with relevant stakeholders, and improvements to services for children are released to the public. The Minister must respond to these recommendations within 45 days. Deaths of children who do not come under the CDRC mandate are handled by the Office of the Chief Coroner.

Child Abuse Register

There is no formal Child Abuse Register in New Brunswick. The Department does, however, maintain an online computerized system of information on all families it serves in the province.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Minister, the parents or caregivers (and the child, in some cases) or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

If the provision of services in the home cannot protect the child, the worker must take steps to remove the child from the home. A temporary alternate placement is used to protect the child while efforts are made to enable the early return to his or her family. The Department of Family and Community Services may enter into a **Custody Agreement** with a parent who accepts a voluntary transfer of custody, care and control of the child for up to one year (extensions made only in exceptional cases). Guardianship rights are retained by the parent for the duration of the agreement. Although Custody Agreements can be used in cases of child abuse and neglect, a court order is usually obtained in order to keep the child in care if it is suspected that long-term involvement is needed. Custody Agreements may also be used to provide specialized out-of-home services to a child with special needs.

A **Guardianship Agreement** is used when a parent voluntarily relinquishes a child for adoption. A three-day grace period is provided when the case involves a newborn, and the parent is advised to obtain independent legal counsel before entering into this agreement.

Court-Ordered Protection

Where voluntary measures are not suitable, or when a child has been apprehended, the child protection worker must apply for a court hearing. When the Court of the Queen's Bench determines that the child is in need of protective care, it may make one of the following orders regarding the child's care.

A **Supervisory Order** authorizes the Department of Family and Community Services to exercise supervision of the child and the child's family in the family home for up to six months, with the parent retaining custody and guardianship of the child. The order may be extended for further periods of six months each.

A **Custody Order** allows for the removal of the child from the home for up to six months, and may be extended for additional six-month periods to a maximum of 24 months. Custody, care and control (but not guardianship) of the child are transferred to the Department for the duration of the order.

A **Guardianship Order** stipulates that the child be removed from the home and that the care, custody, and control of the child and all parental rights and responsibilities with respect to the child be transferred to the Minister.

The *FSA* also provides for a **Protective Intervention Order** that prohibits a person from residing in the same premises as the child, or contacting or associating with the child for up to six months if, in the opinion of the court, that person is a source of danger to the child's security or development.

Under the *FSA*, an application to the Family Court for a **Place of Safety Order** can be made where the youth is at least 12 years old and is considered to be at risk of doing harm to self or others. This order allows the Minister to place the child in a residential facility for a period of up to six months.

Appeals

Any order made regarding a child's care may be appealed within thirty days of the order to the Court of Appeal of New Brunswick. An order that is appealed remains in effect pending the disposition of the appeal.

Extended Care

Under Sub-section 49(5), services may be extended in certain situations beyond the age of 19 years to children who were in the permanent care and custody of the Department of Family and Community Services. Extended care for children in care who reach their 19th birthday may be provided through a **Post Guardianship Agreement** with the child. This is a Voluntary Support/Care Agreement with a former child in care who, upon reaching his/her 19th birthday had a guardianship status, has left the care of the Minister, and is accepted by an educational institution into a program of full-time studies prior to his/her 21st birthday. This agreement cannot be extended beyond the person's 24th birthday.

Support Services

Voluntary Intervention Services

Preventive services are available to families from the Department when it is agreed by all parties that such services would reduce the possibility of harm to children living in the family. Parent aid service is often provided to families to assist parents in learning and applying appropriate child-rearing techniques. In addition, Human Service Counsellors (HSCs) are available to provide assistance to parents and to children. HSCs also help the family's social worker to implement a case plan by assisting with such things as developing behavioural programs for children, helping the family and/or child get treatment appointments, etc.

Respite services can be purchased when they are required as a part of the case plan. This service, although used widely in the Children with Special Needs Program, is also used in child protection and for children in care.

Placement Resources

Foster Care

Foster care is the preferred placement option for most children coming into care. Within each regional office, one or more social workers are designated with responsibility for the provision of foster care services in that region.

Following the receipt of an application, consultation with the references and a criminal record check, foster parent applicants are asked to undergo "Pre-Service Training" to help assess their suitability for fostering and to provide them with basic information on fostering. Applicants and their family members are then interviewed and a home assessment is conducted.

Upon approval of a foster home, a "Foster Family Resource Agreement" is signed between the foster parents and the social worker. The agreement outlines the roles of the foster parents and the Department. All foster parents are given a manual on foster care and an ID card identifying them as foster parents and providing authorization for minor medical services for a foster child.

Once approved, any foster family can attend any training there is available at the regional level. Attendance is mandatory only for Therapeutic foster families. Regional foster home co-ordinators are responsible for the co-ordination and sometimes the delivery of training.

Most of the foster family training deals with child development and child management issues. Courses such as STEP-Teen and other courses on discipline are very much in demand. The N.B. Community College has developed the first three of a proposed curriculum of 20 courses that will be made available to foster parents across the province.

In New Brunswick, there are two types of foster homes approved by the Department of Family and Community Services. Regular foster homes are approved for the placement of one or more children in care (including emergency placement homes). Provisional foster homes (usually a relative, friend or neighbour) are used specifically for a designated child in care. Generally, a maximum of five children is permitted in a regular foster home; however, in therapeutic and special needs homes, a maximum of two children is permitted.

Regular Foster Homes

Regular foster homes can include Therapeutic foster families and Young Offender foster families. Therapeutic foster families are career-oriented or professional foster families that are prepared to combine the skills of child-caring with the challenge of developing a competency-based approach for systematically treating specific needs of children. Young Offender foster families are foster families that are able to accommodate youth who have come into conflict with the law and who have specific court-ordered conditions regarding their care.

Kinship Foster Family

A Kinship foster family is a family approved to foster a specific child because they are relatives of the child or are considered to be significant to the child.

Investigation of Allegations Against Foster Homes

When an allegation of abuse is made against a foster parent, the report is investigated in accordance with the Department's abuse protocols. The foster parent is entitled to receive specific information about the investigation process, specific services available from the Department, and support from the Foster Assistance and Support Team.

The continued security of the alleged child victim, as well as other children in the home, is considered paramount in any decision to remove children from a foster home. The Regional Director, in consultation with appropriate staff, determines if an investigation should be carried out by the local office or by a neighbouring office or region. A meeting is held as soon as possible between the child's worker, the foster home co-ordinator and a worker from the investigative unit to decide whether to remove the child(ren) or utilize other interventions.

In respecting the Department's dual responsibility, all aspects of the investigation are carried out by staff from an appropriate investigation unit, while services to the foster family are provided by the local foster home unit. During the course of the investigation, the region ensures that the foster family has the opportunity to share their perception of events and to have it reflected in the official report.

New Brunswick Foster Families Association

The New Brunswick Foster Families Association supports local associations in each region of the province. Departmental Regional Offices encourage local association development and provide funding to the local association in their region. All foster parents automatically become members of the association in their area and are encouraged to contact other members for mutual support. The association is devoted to meeting the following objectives:

- to work for the betterment of the foster child;
- to promote fellowship among foster families;
- to provide a forum for training and exchange of ideas and mutual support;
- to identify and attempt to resolve foster care issues in conjunction with the Department; and
- to advocate on behalf of foster parents.

Group Care / Group Homes

Residential Group Care

Group care facilities offer some of the characteristics of both the foster family and the institutional setting. They pursue the goal of promoting the well-being of children who cannot live with their family, or for whom foster care is inappropriate for specific reasons.

Group Homes

Group homes are residential facilities owned (or rented) and operated by an agency or corporate body and are contracted by the Department to provide services. The contractor employs staff to provide 24-hour care, supervision and treatment of up to six children who display physical, intellectual, emotional or behavioural disabilities, or who have received an open custody disposition under the *Young Offenders Act* (Canada).

Adoptions

Adoption transfers all parental rights and responsibilities from the birth parents or the Minister of Family and Community Services to the adoptive parents. Under the *FSA*, persons may adopt children either through the Department of Family and Community Services, or privately, i.e., if the birth mother places the child with a family for the purposes of adoption. The Act does not permit third party placements; there are no private agencies licensed for the purposes of adoption placements in New Brunswick. All adoptions are finalized through an **Adoption Order** under Part V of the *FSA*.

Adoption is the preferred placement option for a child who comes into the permanent care of the Minister under either a Guardianship Agreement or Order. The Department must ensure that any placements are based on the best interests of the child. Under a Guardianship Order, the court permanently transfers the care, custody and control of the child to the Minister. The child is thus legally eligible for adoption. Guardianship Agreements are used where the parent(s) voluntarily transfer the guardianship of the child to the Minister on a permanent basis. Guardianship Agreements are generally used in cases where infants are relinquished to the Department for the purposes of adoption.

Birth parents have the option of participating in the choice of the adoptive parents where a Guardianship Agreement has been signed. The Department must see to it that all birth parents receive counselling prior to signing an agreement. The Department also provides support services to both the child and adoptive family, and will provide counselling in the event that an adoption placement is disrupted.

An Unmarried Parents Service is provided for women who are pregnant or who have given birth and/or birth fathers who request counselling. This service is a pre-decision support service that attempts to ensure that the parents are aware of all options and their implications for both themselves and their child.

Private Adoptions

A private adoption occurs when a birth parent places a child for adoption with someone who is known to the birth parent. Under the *FSA* both the birth parent and prospective adoptive parents must notify the Minister of the intention to place the child for adoption with any other person other than a member of the immediate family. Through the Department, the birth parent(s) receive counselling to ensure there has been no coercion, no third party involvement, and no financial payments. The social worker gathers social and medical information on both birth parents if possible. A social and medical history is required for court purposes.

The adoption social worker meets with the prospective adoptive parents and completes an assessment; this information is shared with the birth parent(s). A recommendation is made as to the suitability of the placement of a child with the prospective adoptive parents and a report is provided to the Court. Birth parents are advised to seek legal counsel independently from the adoptive parents, and all documents must be signed in the presence of a lawyer. In the case of a private adoption, birth parents may revoke their consent at any time before an adoption order is made. According to the *FSA* a child must reside with the prospective adoptive parents for six consecutive months prior to the granting of an order.

Spousal or Family Adoption Placements

Where a child is being adopted by an immediate family member, i.e., aunt, uncle, brother, sister, grandparent, or step-parent, there is usually no departmental involvement. In such cases, the birth parent and adoptive parent conduct the placement themselves. The adoptive parent (with the assistance of a lawyer) is responsible for the application to court and all costs incurred. The Court may order that an adoption assessment be completed. The Department must be given 30 days prior notice before the Court hearing so a prior contact check in the computer system can be done to determine if there are child protection concerns. If there are concerns, a request is made to have them heard by the Court.

International Adoptions

New Brunswick is a signatory to the Hague Convention on Intercountry Adoption and has designated the Consultant Responsible for Adoption Services as the Central Authority for the province.

Post-Adoption Record Disclosure Service

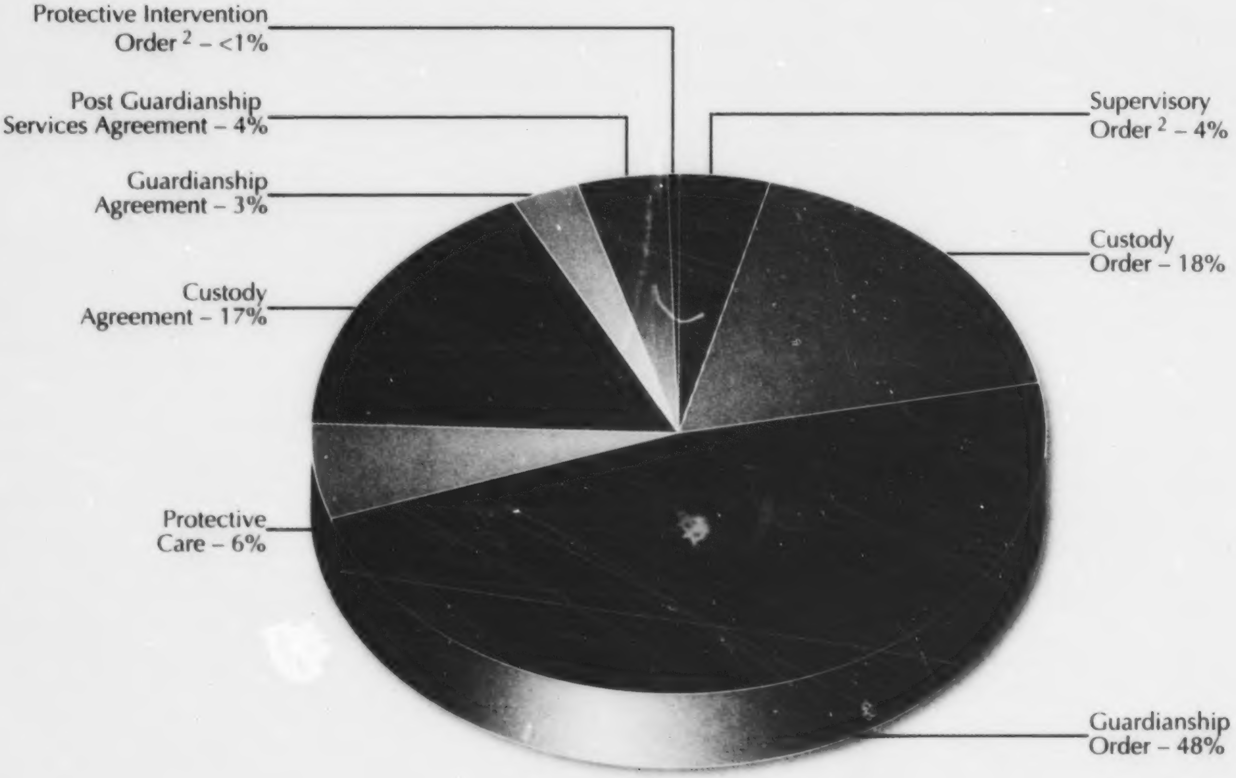
The Department's central office operates a Post-Adoption Record Disclosure Service that provides non-identifying information about each other to adult adoptees, birth parents, birth siblings and adoptive parents. The Post-Adoption Disclosure Service also acts as a register for those adult adoptees, birth parents, and adult birth siblings who wish to contact each other and/or exchange identifying information. A match occurs when two parties who are seeking to contact each other are both registered. An adult adoptee can also request a search for a birth relative who is not registered.

Statistics

Due to the limitations noted in the Introduction, New Brunswick data should not be compared with data for other jurisdictions.

Figure 4.1

Children in Care[1] by Legal Status as at March 30, 1999



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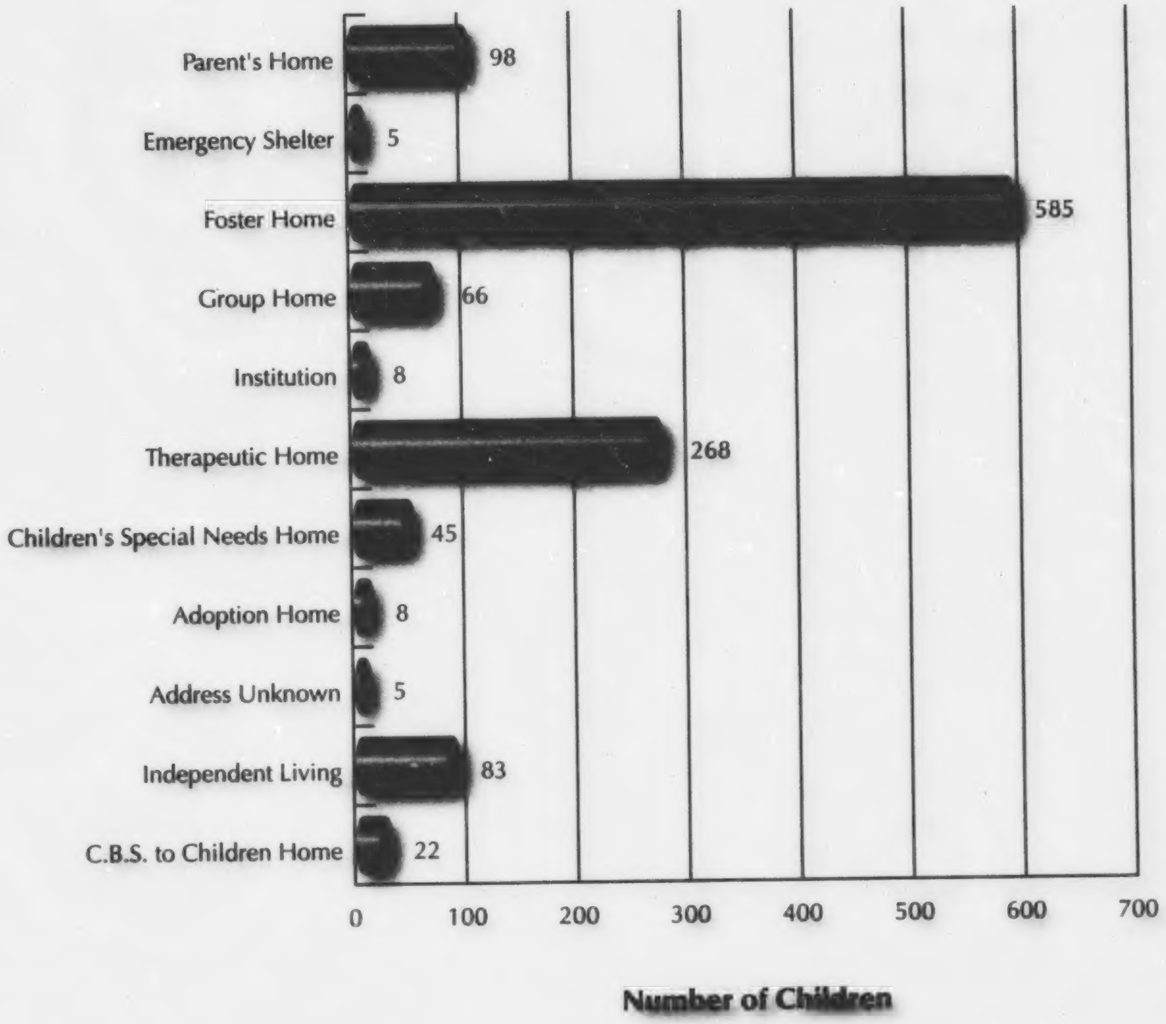
1 According to the *CFSA* a "child in care" means any child within an age group prescribed by regulation who has been placed under protective care or any child who is in the care of the Minister.

2 Children under Protective Intervention Orders and Supervisory Orders are not "in care" as they remain at home.

Children in care: 1,193

Figure 4.2

Children in Care[1] by Placement Type as at March 30, 1999



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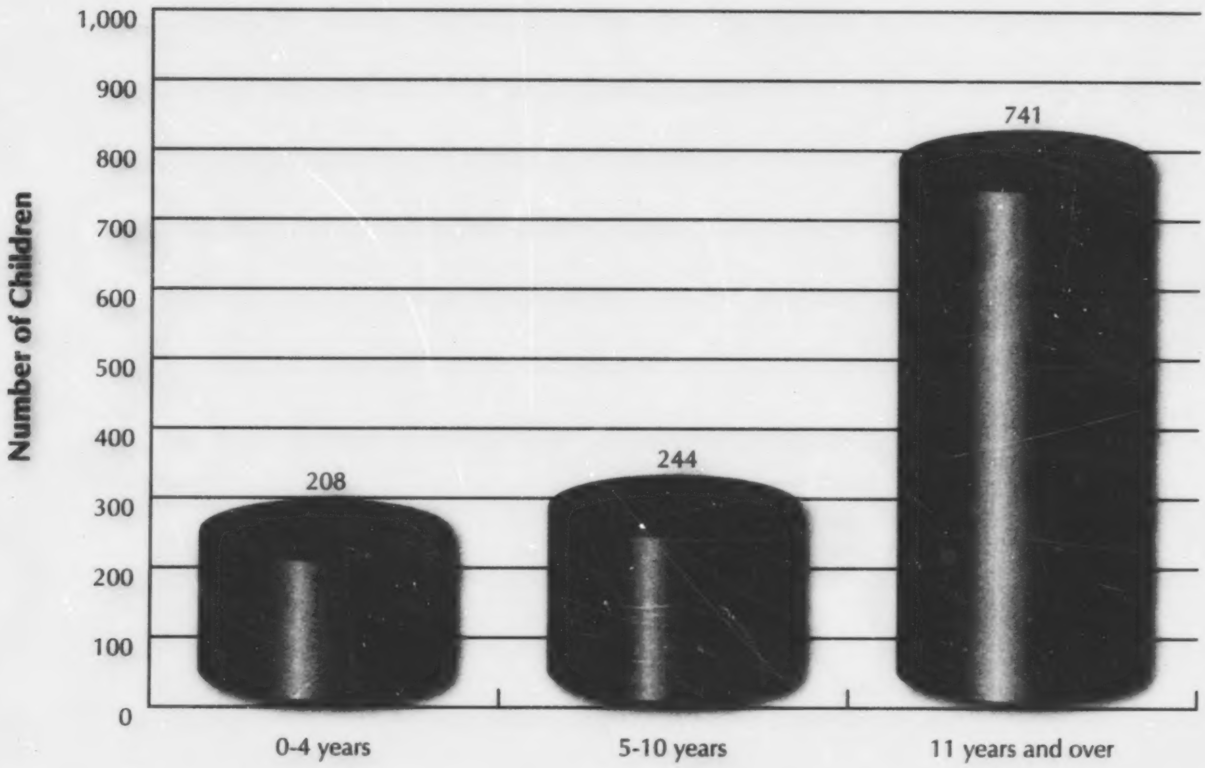
[1] According to the *CFSA* a "child in care" means any child within an age group prescribed by regulation who has been placed under protective care or any child who is in the care of the Minister.

Children in care: 1,193

Figure 4.3

Children in Care[1] by Age Group as at March 30, 1999



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[1] According to the *CFSA* a "child in care" means any child within an age group prescribed by regulation who has been placed under protective care or any child who is in the care of the Minister.

Children in care: 1,193

Resource Material

Legislative Material

Family Services Act, Statutes of New Brunswick 1980, c. F.-2.2, as amended.

The Coroners Act, Statutes of New Brunswick 1980, c. C.-23, as amended.

Other

New Brunswick Department of Health and Community Services. *Program Standards, Child Protection Services Standards, Child in Care Program Standards, and Access & Assessment Standards.*

New Brunswick Department of Health and Community Services. *Child Victims of Abuse Protocols.*

New Brunswick government Web site: **http://www.gov.nb.ca/**

5 QUEBEC

The Province of Quebec has unique legislative arrangements that influence the delivery of child and family services. Quebec's *Charter of Human Rights and Freedoms (Charte des droits et libertés de la personne)*, and the *Civil Code of Quebec (Code civil du Québec)* constitute the framework for the province's justice system. The *Civil Code of Quebec* is the general law concerning persons and relationships between persons and property. The *Charter of Human Rights and Freedoms* lays out rules governing relations between citizens and defines fundamental human rights and freedoms. In the context of this report, both acts establish the fundamental principles governing the rights and interests of children and the responsibility and authority of parents.

Administration and Service Delivery

Administration

The Department of Health and Social Services (Ministère de la Santé et des Services sociaux – MSSS) provides prevention, protection, rehabilitation and social reintegration services for Quebec children and their families under three acts.

The *Act Respecting Health Services and Social Services (Loi sur les services de santé et les services sociaux – LSSSS)* aims to preserve and improve the physical, mental and social capacity of people to function in their communities. It also provides the framework for specialized services throughout Quebec, including child protection services.

The purpose of the *Youth Protection Act (YPA) (Loi sur la protection de la jeunesse)* is to protect children under the age of 18 years from situations that endanger their security or development and to ensure that these situations do not recur. The *YPA* acknowledges that parents are responsible for supervising their children and providing them with care, support and education. However, the Act also recognizes that the province has a responsibility to intervene when children are in need of protection.

The federal *Young Offenders Act (YOA)* applies to any person between the ages of 12 and 17 years of age who commits a criminal offence. The Director of Youth Protection has the powers of a "provincial director" as defined under the *YOA*. Many young offenders are dealt with in youth court; however, under alternative measures, some are required to make restitution to the victim or perform community service under the supervision of a Director of Youth Protection.

The Department of Health and Social Services' role in the area of child protection is to establish program policy, enforce relevant legislation and allocate budgets across all regions. This is done by the Youth, Substance Abuse and Mental Health Directorate, (Direction de la jeunesse, des personnes toxicomanes et de la santé mentale) which is part of the Public Services Branch (Direction générale des services à la population) of the MSSS. The Directorate is responsible for ensuring access to services, directing the delivery of services to the public, ensuring implementation and follow-up of government plans and policies, ensuring liaison with all parties involved in the organization of services, and developing client expertise.

Service Delivery Network

In Quebec, the delivery of services is achieved through a regional and local service delivery system. There are 16 administrative and two northern regions in the province responsible for the overall organization and co-ordination of health and social services, as well as budgetary allocation to organizations involved in service delivery. The *LSSSS* sets out general directives for the types of services provided by various agencies as part of this regional service delivery network.

Each of the 16 regions in Quebec has a Youth Centre, overseen by a Director General and governed by a Board of Directors. Youth Centres are para-public facilities administered by an independent board of directors established in accordance with the *LSSSS* and accountable to the MSSS. They deliver the full spectrum of specialized services for youth protection, young offenders, foster care, family mediation and adoption. The Centres also provide rehabilitation services to youth and mothers in difficulty.

The Director General, in consultation with the Youth Centre's Board of Directors, appoints a Director of Youth Protection for each Youth Centre. The Director of Youth Protection (DYP) is responsible for the welfare of children and for young offenders in that region. Although the DYP reports to the Director General, the *YPA* confers exclusive authority for all matters relating to child protection on the Director. The DYP intervenes in all cases where a child's safety is or may be considered to be at risk, is involved throughout all the related proceedings, and co-ordinates all child protection interventions required within the region. The DYP is accountable under the *YPA* and may delegate responsibilities and authority to staff of the Youth Centre. The DYP is also responsible for administering significant portions of the *YOA* in the capacity of a "provincial director" as defined by the *YOA*, for youth in the region.

Locally-based services are delivered by the 154 Local Community Service Centres (Centres locaux de services communautaires – CLSC) across the province. They provide a range of short-term health and social services, including treatment, prevention, rehabilitation and reintegration. CLSCs may also refer clients to specialized services provided by other institutions, such as Youth Centres.

After Hours

Youth protection services are available 24 hours a day, seven days per week in all regions of Quebec.

Human Resources

Youth Centre staff involved in the delivery of child protection services hold either a university degree in a social sciences field or have completed a college program, usually in social assistance or special education.

Initial and continuous training are not standardized across the province, although a training program is currently being implemented across all Youth Centres. The aim of the program, which is based on the generic and specific skills required of child and youth protection workers, is to standardize basic training for all staff.

Quebec Human Rights and Youth Rights Protection Commission

The Quebec Human Rights and Youth Rights Protection Commission (Commission des droits de la personne et des droits de la jeunesse) is an independent agency that reports to the National Assembly of Quebec.

It is responsible for upholding the principles set forth in Quebec's *Charter of Human Rights and Freedoms* and to protect the rights of children as defined under the *YPA* and *YOA*.

Any person who has reason to believe that the rights of a child or a group of children are being violated may report this belief to the Commission. The Commission investigates situations where it has reason to believe that the rights of a child or a group of children have been violated by individuals, institutions (within the meaning of the *LSSSS*) and agencies, unless the matter is already before a court. If necessary during an investigation, a Commission member (or an employee) may seek written authorization from a justice of the peace to enter any place if there are reasonable grounds to believe that a child is, or may be, at risk.

Section 41 of the *YPA* stipulates that the DYP must notify the Commission in the case of a child who is the victim of sexual assault or who is subject to physical ill-treatment through violence or neglect.

The Commission also acts to ensure that children's rights are respected by providing awareness campaigns to inform the public about the rights of children, by conducting research, and by making recommendations to the Ministers of Health and Social Services, Justice, and Education.

First Nations

Legislation

The *YPA* does not allow for delegation of authority from a DYP to a First Nations band council or chief. Arrangements can be authorized by the DYP under Section 33 of the *YPA* for First Nations agency staff to: "perform one or more of his duties, except those listed in section 32". This authority may include investigative and service delivery activities; however, the DYP retains all decision-making capacity.

Sub-section 2.4(5c) of the *YPA* states that any measures taken under the Act should: "take into consideration ... the characteristics of Native communities".

Administration

In First Nations communities, the *YPA* is administered by a team, often led by an Aboriginal person trained in social work, located in a Youth Centre or a First Nations agency (depending on the region). The Cree, the Naskapi and the Inuit are included in Quebec's health and social services system under the *James Bay and Northern Quebec Agreement* and the *Northeastern Quebec Agreement*. In the regions covered by these agreements, statutory social services are organized and delivered independently (but according to the *YPA*) by a Regional Heath and Social Services Council having a First Nations majority membership. Child and family services are provided to all three Aboriginal communities.

Definitions

Child

Section 1(c) of the *Youth Protection Act* defines a **child** as "a person under 18 years of age".

Child in Need of Protection

In Quebec, a child in need of protection is a child whose security or development is or may be considered to be in danger. Under Section 38 of the *YPA*, "**the security or development of a child is considered to be in danger** where

a) his parents are deceased or do not, in fact, assume responsibility for his care, maintenance or education;

b) his mental or affective development is threatened by the lack of appropriate care or by the isolation in which he is maintained or by serious and continuous emotional rejection by his parents;

c) his physical health is threatened by the lack of appropriate care;

d) he is deprived of the material conditions of life appropriate to his needs and to the resources of his parents or of the persons having custody of him;

e) he is in the custody of a person whose behaviour or way of life creates a risk of moral or physical danger for the child;

f) he is forced or induced to beg, to do work disproportionate to his capacity or to perform for the public in a manner that is unacceptable for his age;

g) he is the victim of sexual abuse or he is subject to physical ill-treatment through violence or neglect;

h) he has serious behavioural disturbances and his parents fail to take the measures necessary to put an end to the situation in which the development or security of their child is in danger or the remedial measures taken by them fail."

Section 38.1 of the *YPA* further states that "**the security or development of a child may be considered to be in danger** where

a) he leaves his own home, a foster family, a facility maintained by an institution operating a rehabilitation centre or a hospital centre without authorization while his situation is not under the responsibility of the director of youth protection;

b) he is of school age and does not attend school, or is frequently absent without reason;

c) his parents do not carry out their obligations to provide him with care, maintenance and education or do not exercise stable supervision over him, while he has been entrusted to the care of an institution or foster family for one year."

Child Abuse and Neglect

Sexual and physical abuse result from actions or omissions that lead to physical injury or trauma or involve exploitation of a child's dependence on a person for sexual purposes. Abuse and neglect are not defined in the *YPA*; however, the following working definitions have been paraphrased from the Reference Manual for the *YPA*.

Sexual Abuse

Sexual abuse is an act committed by a person giving or seeking sexual stimulation inappropriate to the age and development of a child or adolescent. Where the abuser is a blood relative to the victim or is in a position of power or authority with respect to the victim, it is seen as a violation of the child's or the adolescent's physical or mental integrity.

Physical Abuse

Physical abuse refers to actions or omissions toward a child that lead to physical injury and affect the child's mental integrity. Physical abuse can result from violence or neglect. Physical abuse through violence includes acts that cause physical injury or trauma that can have a serious impact on the child's health, development, or life. These acts are unreasonable because they involve force or repetition. Physical abuse through neglect includes chronic qualitative and/or quantitative failure to meet a child's physical needs, or failure by the parents to take the necessary steps to prevent their child from being physically abused by another person.

Legislated Rights of Children

Section 39 of the Quebec's *Charter of Human Rights and Freedoms* and Section 32 of the *Civil Code of Quebec* both state that "Every child has a right to the protection, security and attention that his parents or the persons acting in their stead are capable of providing." Section 33 of the *Civil Code of Quebec* further states that "Every decision concerning a child shall be taken in light of the child's interests and the respect of his rights. Consideration is given, in addition to the moral, intellectual, emotional and material needs of the child, to the child's age, health, personality and family environment, and to the other aspects of his situation".

All decisions made under the *YPA* must be in the child's best interest and must respect the child's rights. The *YPA* recognizes every child in Quebec as having the following rights:

- the right to adequate health, social, and educational services (Section 8);
- the right to give or refuse consent if he or she is over the age of 14 (Sections 52 and 87);
- the right to be informed of all rights enshrined in the *YPA* (Section 5);
- the right to be heard and consulted on transfer (Sections 6 and 7);
- the right to consult and be represented by counsel (Sections 5, 78 and 80);
- the right to confidential communication (Section 9); and
- the right to foster care that meets his or her needs (Section 11.1)

Child Abuse/Neglect Protocols

Quebec has established five province-wide protocols that deal with child abuse and neglect.

1. The Multisectoral Agreement on Child Victims of Sexual Abuse, Physical Abuse or Neglect that Threatens their Physical Health (« Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique ».) This agreement includes and replaces the two agreements that were signed in 1989 and 1992 with the social services and educational networks regarding allegations of sexual abuse. It also replaces the memoranda of understanding that were signed by the former child day care office (Office des services de garde à l'enfance), the association of youth centres of Quebec (Association des centres jeunesse du Québec) and DYPs. The procedures for social and legal intervention set out in this agreement are intended to ensure an appropriate, ongoing and co-ordinated response to child protection and assistance needs by all institutions and organizations involved in the situation. Five ministries signed this agreement: Education, Public Security, Justice, Family and Childhood (Famille et Enfance), and Health and Social Services.
2. The Protocol on Medical and Social Assessment and Intervention for the Protection of Abused Children (« Protocole d'évaluation et d'intervention médico-sociale pour la protection des enfants maltraités ») was developed in order to improve co-operation and co-ordination between medical and social work staff when dealing with child abuse. It provides information and clarification regarding the actions to be taken in hospitals and medical clinics and the working

relationships to be established between hospital medical staff and social workers.

3. The Protocol on Activities Related to the Placement of Children (« Protocole relatif aux activités entourant le placement d'un enfant ») describes the procedure to be followed when a child is being removed from the home. It identifies the people involved in decision making and describes how transitions are made from one system to another. This protocol applies to the entire health and social services network and is based on clinical and organizational principles.
4. The Protocols on the Receipt and Processing of Child Abuse/Neglect Reports, Assessment and Orientation (« Protocoles réception et traitement des signalements, évaluation et orientation ») were developed in 1988 in the wake of the Harvey report, which reviewed Quebec's youth protection system. The purpose of the protocols is to provide youth workers with a practice framework and enable them to assist children through the investigation process.
5. The Protocol on the Application of Youth Protection Measures for Authorized Persons (« Protocole relatif à l'application des mesures de protection de la jeunesse à l'intention de la personne autorisée ») is an extension of the preceding protocol. This protocol indicates how the transition is made from the assessment/orientation phase to the intervention phase, who is involved, and what procedures are followed.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 39 of the *YPA* stipulates that every professional, employee of an institution, teacher or police officer who, in the performance of his duties, has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger must report the situation to the DYP. All other persons have a duty to report suspected cases of sexual and physical abuse, even if they are bound by professional secrecy, except for information protected by client-lawyer relationships. Individuals may, but are not bound to, report other situations where a child may be in danger. Furthermore, an adult is required to assist a child who wishes to report his, his siblings' or any other child's need for protective services. Reports of a child with serious behavioural problems that pose a risk to his security can also be made.

Penalties for Not Reporting

Any person who is required to but fails to report that a child may be in need of protection is guilty of an offence and is liable to a fine of $250 to $2,500. In addition, every person who fails, refuses to or neglects to protect a child in his or her custody, or performs acts that may endanger the security or development of a child is guilty of an offence and is liable to a fine from $625 up to $5,000.

Investigation of Allegation of Abuse or Neglect

Who Investigates

Child protection workers delegated by the Director of Youth Protection are involved in evaluation, investigation and case planning for children whose security or development is, or may be, considered to be in danger. The investigation process is carried out in four steps.

Step 1: Reception and Risk Assessment

Upon receiving an allegation of abuse or neglect, the worker conducts an initial assessment to determine if an investigation is required. The process involves:

- determining whether the reported facts relate to the legal definition of a child in need of protection;
- determining the seriousness of the situation; and
- determining if the child is at risk and if the parents or the home environment ensure the child's safety.

If initial assessment criteria are met, the investigation begins and the level of risk to the child is assessed using a coded priority rating system. Code 1 requires immediate intervention, Code 2 requires intervention within 24 hours, and Code 3 requires an intervention within four working days.

Step 2: Determining Whether Urgent Measures are Needed

If the DYP determines that an investigation is required, he must also decide whether urgent measures are warranted. These measures are used where the child's security appears to be in serious and immediate danger, and may involve removing the child from his or her environment and placing the child in a foster home, residential facility or hospital, depending on the child's needs. Urgent measures are limited to 24 hours; however, they may be extended for up to five days where the DYP has obtained a court order stating that longer-term measures are needed. The child must be consulted and where possible, the child's parents as well. If the parents or child object to the use of urgent measures, the DYP may bring the case to the Court of Quebec as quickly as possible to enforce compliance. Where urgent measures are used, the DYP may authorize medical treatment or other care on behalf of the child without the parents' consent.

Step 3: Conduct a Thorough Evaluation to Determine if the Child is at Risk

The DYP, or his delegate, determines if the child's security or development is in danger by evaluating the child's situation and living conditions. This process includes assessing:

- the exact nature of the situation (verifying facts and the gravity of the situation);
- the vulnerability of the child;
- the parents' capabilities; and
- the support available in the child's home environment.

This information is gathered from the child, the parents/guardians, the person making the allegation and any other person who may help in establishing the facts. In every investigation of an allegation of abuse, the DYP interviews the child before meeting with the parents.

Step 4: Determine the Required Intervention

Where an investigation shows that a child is at risk, the DYP takes control of the child's situation and determines the appropriate action to be taken. The scope of the DYP's responsibility is limited and specific: he does not take the child into custody, but rather takes control of the child's situation. The parents continue to have primary responsibility for their child. The DYP determines the required intervention(s) and whether to pursue these through a voluntary agreement or through court-ordered protection.

Institutional Investigations

In situations of alleged abuse in a school or health and social services institution, an interview is conducted jointly by a social worker and a police officer according to existing protocols. In these situations, all parties involved (DYP, police officer, person responsible for the school or institution, Crown Prosecutor) meet within 24 hours after the investigation in order to determine a plan of action. During the evaluation phase, medical experts may be called upon to help determine whether the allegations are genuine or should be dismissed. The investigation must be completed within 11 working days following receipt of the initial report.

Risk Assessment/Risk Management

There is no single mandatory risk assessment instrument used by child protection workers. However, more than 1,500 Youth Centre staff have been trained to use the Complete Child Welfare Inventory (l'inventaire concernant le bien-être de l'enfant en lien avec l'exercice des responsabilités parentales). Some Youth Centres also use the Illinois Safety Assessment and the New York Risk Assessment Model in conducting their assessments. Increasing numbers of child protection workers use the system of support for practice (SSP), a computerized decision-making tool that was developed taking the concept of compromise into account.

Departmental Role in Investigation of Third Party Abuse

The Department does not participate in investigations concerning allegations of abuse by a non-caregiver. However, under Section 72.7 of the *YPA*, the DYP may report a situation to the Attorney-General or the police where a child's security and development are deemed to be compromised because the child's physical health is threatened due to the absence of appropriate care, or where the child is a victim of sexual abuse or is subject to physical abuse as a result of excess or neglect.

Investigation of Child Deaths

In 1997, the Chief Coroner created two multidisciplinary teams specifically to review children's deaths. One team is located in Quebec City, the other in Montreal. Both teams meet monthly to review all non-natural deaths of children up to the age of five years. All cases of sudden infant death syndrome (SIDS) are also reviewed. Each team is co-chaired by a paediatrician affiliated with a children's hospital and experienced in recognizing child abuse. A Deputy Coroner serves on the committee in Quebec City, and a full-time Coroner serves on the committee in Montreal. Both committees include representatives from a Youth Centre and a member from the provincial police in Quebec City and, in Montreal, a member from the city's municipal police force. In 1994 the Chief Coroner introduced a protocol for child autopsies to ensure consistency in technique and procedure.

Child Abuse Register

Quebec does not have a child abuse register. However, information on the situations dealt with by the Youth Centres is compiled continuously.

Agreements and Orders

Based on the evaluation of the child's situation, the DYP determines whether to negotiate a voluntary agreement with the parents or refer the child's situation to the court. His decision is generally based on the willingness of the child/family to attempt to resolve the situation without court involvement. Although the process differs, intervention measures contained in an agreement or in a court order are basically the same. Both must describe the situation that needs to be corrected and summarize the services required to achieve this goal. The goal of intervention is to end the situation that puts the child's security or development in danger and to prevent that situation from recurring.

Voluntary Agreements

The provincial table of DYPs clearly prefers to use voluntary measures when possible. With this intention, the DYP attempts at all the stages of the process to involve the parents and the child, in order to come to an agreement on the measures which best meet the needs for the child and his family. Where the DYP decides to pursue a voluntary agreement, he contacts the parents or guardian to obtain their agreement on which measures are most appropriate. The DYP must inform the child's parents or guardian and the child, if the child is 14 years or older, of their right to refuse any voluntary intervention.

The decision-making capacity of parents must be taken into account in negotiating voluntary agreements. Even when a child is in a foster family, a rehabilitation centre or a hospital, parents preserve their capacity to make decisions on the child's behalf. The *YPA* does not contain provisions for changing the legal status of a child; only a court order based on the *Quebec Civil Code* can remove parental rights.

Three conditions must be met in order to reach a voluntary agreement:

- the parents/guardians and the child (depending on the child's age) must recognize the extent to which the child's security or development is in danger;
- the parents/guardians and the child must be able to apply the voluntary measures in question, and both parties must be willing and determined to abide by the conditions outlined in the agreement; and
- the father, the mother, and the child (if 14 or older) must all consent to the agreement. If consent is not reached within 10 days, the DYP must refer the situation to court.

Voluntary agreements are legally binding and stipulate the measures that parents are required to implement and may include:

- the child remains at home and the parents report to the DYP periodically on the measures they apply to put an end to the situation in question;
- the child and parents actively participate in the measures designed to put an end to the situation in question;
- the child does not come into contact with certain persons;
- the child is entrusted to other persons;
- the provision of aid, counselling or assistance to the family by a professional;
- entrusting the child to hospital or local community service centre to receive necessary care;
- reporting in person at regular intervals to inform the DYP on the current situation;
- the child receives health services needed to address the situation in question;
- entrusting the child to a rehabilitation centre or foster home chosen by the Youth Centre for a fixed period of time; and
- the child attends a learning institution other than a school.

The DYP is required to ensure that the services required under the terms of an agreement are provided to a child or family, preferably in the community where the child lives. Where the DYP proposes that the parents entrust the child to a rehabilitation centre or hospital, it must be specified whether the child remains with the family or if foster care is required.

A voluntary agreement may last for up to one year. Where the DYP feels the situation is improving, he may negotiate a new agreement for one more year, provided the measures do not include placement in a foster home or placement facility. If the child is placed outside the family, the agreement may be renewed for six months for a child under the age of 14, or for two consecutive periods of six months for a child 14 years of age or over. The *YPA* stipulates that in no case can an agreement exceed two years.

Agreements for disabled children or children approaching the age of 18 (with no protection concerns) can be reached on a voluntary basis under the *LSSSS*.

Court-Ordered Protection

Child protection matters that cannot be resolved through a voluntary agreement are heard by the Youth Division of the Court of Quebec (Chambre de la jeunesse). The Court is required to render a decision on the extent to which the child's security or development is in danger. Where the child is determined to be at risk within the meaning set out in the Act, the court stipulates the interventions required.

In Quebec, a court order does not change the legal status of a child. An order of the Youth Division of the Court of Quebec may stipulate that any of the voluntary measures previously listed be applied to the situation in question but with no stated requirement for the parents (or the child in some cases) to implement the measure. The parent(s) or child must abide by the measure, and the DYP is accountable for the implementation of any measure. The Court may also order the implementation of the following measures:

- that a person ensures that a child and the parents abide by the conditions set forth and periodically report to the DYP;
- withdraw the exercise of certain rights of parental authority from the parents, such as custody, but not guardianship;
- recommend that a guardian be appointed for the child;
- make any other recommendation it considers to be in the best interests of the child.

Under the *YPA*, court decisions are enforceable as soon as they are made, and any person named in an order must comply with the order immediately.

Provisional Measures

Where appropriate, the court may order provisional measures until legal proceedings have been concluded. The court may review decisions at any time. The range of possible measures parallels those that may be contained in an order or agreement. Provisional measures are short-term in nature and may be necessary to provide immediate protection for a child, especially where one of the parents or the child objects to the protection intervention.

The court may impose provisional foster care measures if it concludes that the child would be in danger if he or she remained with the parents or guardian. Provisional foster care measures may not exceed 30 days; however, if warranted, one extension of up to 30 days may be ordered.

Varying an Agreement or a Court Order

The DYP periodically reviews the terms of an agreement or court-ordered measures to ensure that they are being adhered to and are still appropriate. The terms of a court order may only be changed by referring the case back to the court for a "Review of Decision".

Circumstances may require that an agreement be varied to ensure that it better meets the child's need for protection. Where the changes are minor and affect neither the content nor the duration of the agreement, it is only required to set out the changes in writing and attach them to the agreement with consent from the parents and the child, where the child is 14 or older. Where the changes are substantial and affect the nature or length of the agreement, a new one must be signed.

All parties that are bound by agreements can revoke the agreement at any time. The parents and the child (if 14 years of age or over) may choose to revoke an agreement if they no longer agree with the conditions, or events may occur that cause the agreement to be broken. The DYP may also choose to end the agreement where repeated failure or lack of involvement by the parents or the child convince him that the conditions put in place to protect the child are no longer effective. The DYP withdraws from the agreement by referring the case back to court.

Appeals

Any *YPA* decision may be appealed to the Superior Court by the child, the parents, the DYP or the Quebec Human Rights and Youth Rights Protection Commission. This must be done within 30 days of the order being made. The court may uphold the original decision, modify the original order, or invoke a new order. Any person who wishes to further appeal may do so on a question of law only; this must be done within 15 days.

Transfer of Guardianship

A DYP may file a motion with the Superior Court of Quebec to seek the guardianship of a child under the *Civil Code of Quebec*. In Quebec, guardianship (la tutelle) means full and complete responsibility for a minor.

Section 207 of the *Civil Code of Quebec* states: "The director of youth protection or the person recommended as tutor by him may also apply for the institution of tutorship to an orphan who is a minor and who has no tutor, or to a child whose father and mother both fail, in fact, to assume his care, maintenance or education, or to a child who in all likelihood would be in danger if he returned to his father and mother."

When the Superior Court rules that the father and the mother have given up all or partial parental authority, the DYP becomes the child's appointed guardian, if the child does not already have one appointed under the *Civil Code of Quebec*. The DYP, or any other person who is ordered as the guardian, assumes full responsibility for the child until the child is adopted or reaches the age of majority. Where guardianship is exercised by the DYP or by a person he recommends, any interested person may apply to the Court for guardianship of the child without having to justify the motion for any reason other than the best interests of the child.

Extended Care

Foster care may continue beyond a youth's 18th birthday until the youth reaches the age of 21 years if the youth consents, or if the DYP provides valid reasons to secure a court order for continuing foster care.

Support Services

Voluntary Intervention Services

Quebec's 154 local community services centres (CLSCs) provide child abuse prevention programs and other front-line health and social services. They are the points of access to child welfare services for problems than can be serious but that do not place the child's safety and/or development at risk. The DYP is notified of situations in which the child's safety and/or development are in doubt so that he can make a determination regarding the child's situation. Emergencies are referred directly to youth centres, which specialize in child and youth protection services. The DYP informs the child and the child's parents of the services and resources available in their community and of how to access them. With their consent, the DYP can refer the parents to the institutions, agencies or people best able to provide the necessary services.

Placement Resources

Approximately half of all youth protection cases involve interventions in the child's own home. These interventions aim to support the parents in carrying out their role with respect to the child. Where it is not possible to keep a child with the natural family, he or she may be placed in a foster home or in a residential facility such as a Rehabilitation Centre for Troubled Youth. The majority of children requiring placement are placed in foster homes.

Foster Care

Under the *LSSSS*, a foster home provides a family-like environment for up to nine children in difficulty. Children who are in need of protection may receive foster care services through an agreement or as a measure specified in a court order. The Department determines the classification of services provided by foster families and the rate of payment for each type of service. Where a child is in foster care under the *YPA*, the parents are required to contribute financial support as set out in the *LSSSS*.

The recruitment, approval processes and training for foster families are the responsibility of the Youth Centre. Each Youth Centre must have a foster training program that is revised on an ongoing basis and evaluated as a requirement for accreditation every three years.

Families who wish to foster children are evaluated by the Youth Centre through a multidisciplinary process assessing the personal qualities, competency for intervention, capacity to deal with the family of origin and ability to collaborate with others on intervention plans. Environmental and sociocultural factors, and employment status are also considered in the decision-making process. The Youth Centre must inform the candidates of the outcome of the evaluation within 30 days of a decision.

Foster families operate under contract with the Youth Centre to support the development of the foster child. When a foster family is approved, the initial contract is signed with the Youth Centre for a maximum duration of 12 months. This means that the foster family agrees to and abides by the plan of care, informs the Youth Centre of any change in the child's situation, co-operates with social workers and educators, and completes any required training. Where possible, the foster family also agrees to work with the child's biological parents. Contracts can be terminated by either party with 90 days' written notice, or without notice if mutually agreed. The Youth Centre provides ongoing training and supervision for all foster families.

When it is decided that a foster care placement is the most appropriate option for a child, the Youth Centre is responsible to act on the decision. A foster care social worker must secure a foster home that best suits the child's needs and provide an ongoing training program for the foster family that addresses the specific needs of the child and family.

In Quebec, there are three types of foster homes: regular, specific and rehabilitation.

Regular Foster Care

Regular foster homes provide levels 1, 2, 3, 4, and 5 services; these levels reflect the degree of assistance and care that the child requires. These service levels provide a framework for foster care rates and for monitoring the progress of the foster child. Regular foster care provides a parental model of care in a family-like environment for up to nine children.

Specific Foster Care

The unique feature of specific foster homes is that the foster parents know the child prior to the placement. The family is part of the child's immediate circle (aunt, grandmother or family friend) and the foster home is certified by the Regional Board to take in that child only. The foster home is closed once the child leaves.

Rehabilitation Foster Care

Rehabilitation foster homes provide services to children who have serious problems or are intellectually impaired. The foster family signs a contract for the provision of specific intervention and rehabilitation services to meet the child's individual needs.

Emergency Placements

Many foster care placements are made on an emergency basis. By definition, an emergency placement allows a child and a foster family no time to prepare and means that a child has to be placed in an interim home and moved at a later date.

Quebec Federation of Foster Families

The Quebec Federation of Foster Families represents 14 affiliated foster family associations throughout Quebec. The Federation assists the foster associations to represent foster families in their negotiations with the Youth Centres, partners with the Department on training and resource development and represents foster families involved in litigation with the Youth Centres. The Federation also plays a role in informing the public about the role of foster families and hosts training activities that complement compulsory training delivered by the Youth Centre.

Evaluation of Allegations Against Foster Homes

Youth Centres are required to identify, prevent and correct unacceptable behaviour likely to jeopardize the welfare of children placed in foster homes. An *ad hoc* committee is responsible for establishing the process used to evaluate allegations so that an informed and fair decision can be made.

A worker who witnesses or is informed of unacceptable behaviour occurring within a foster home must immediately notify a supervisor, who must then immediately convene a meeting of the co-ordinating committee. If the allegations are founded, the DYP makes all final decisions. If the allegations are unfounded, the committee makes any decisions on a consensus basis. If there is no consensus, agreement between the supervisors and the DYP is required.

If the foster home is not satisfied with a decision, it has 30 days to file a written complaint. The committee has 30 days to respond. If the foster home is still dissatisfied with this response, it has 30 days to file a written complaint with the Regional Board. The Regional Board examines the complaint and makes a final decision that cannot be appealed.

Rehabilitation Centres

Under the *LSSSS*, there are a variety of establishments providing social services throughout Quebec. The primary facilities used for child protection include foster homes and rehabilitation centres. Rehabilitation centres offer a range of authorized services for persons with mental/physical disabilities, addiction problems, and social adjustment problems.

Group homes are usually affiliated with a rehabilitation centre. Each group home can accommodate up to nine residents, where guidance, help and support are provided by rehabilitation centre staff.

A number of centres in Quebec's current system of rehabilitation centres have been designated closed (or secure) facilities under the *YOA* by the Lieutenant Governor in Council. Youth who present a danger to themselves or others need to be cared for in a secure facility that can provide intensive monitoring. These placements are usually achieved through a court order.

Complaint Procedures

A child over the age of 14 years or any person who wishes to complain about the services provided by a health or social services institution can do so through a local complaint process established under the *LSSSS*. If the complaint is dismissed by an institution, it can be appealed regionally and provincially.

Adoptions

Provisions relating to adoption in Quebec are contained in the *Civil Code of Quebec* and the *YPA*. Any person who has reached the age of majority may adopt a child, either alone or jointly with another person. Unless the adopted child is the child of a spouse, the adoptive parent must be at least 18 years older than the child. The court may, however, waive this requirement in the interests of the child. Section 543 of the *Civil Code of Quebec* specifies that any adoption must be in the child's best interests.

The DYP is involved in placing a child who has been voluntarily relinquished for adoption or who has been declared available for adoption by a judge, and conducting home studies of adoptive applicants wishing to adopt a child from outside Quebec.

A child may become available for adoption in Quebec through one of the following three processes: 1) judicial declaration, 2) general consent, 3) special consent.

Adoption by Judicial Declaration

The *Civil Code of Quebec* allows for a judge to declare a child available for adoption where it is in the child's best interests and the child's parents do not consent. A judicial declaration of eligibility for adoption may be made in respect of:

- a child over the age of three months whose maternal and paternal affiliation are unknown;
- a child whose father and mother or guardian have not provided care, maintenance and education for at least six months;
- a child whose father and mother have lost parental authority, and for whom DYP has been appointed as the guardian; and
- a child whose father and mother are deceased and the DYP has been appointed as the guardian.

The child's relatives, spouse of a relative, the child himself if 14 years of age or over, or the DYP may apply to the court for a declaration of eligibility for adoption. A child may not be declared eligible for adoption unless it is unlikely that the father, mother or guardian will resume custody, care, support, and education.

General Consent

In cases of adoption by general consent, the parents or guardian of a child inform the DYP of their intent to relinquish the child for adoption. If the DYP determines that adoption is in the child's best interests, the parents' or the guardian's consent is secured by them signing appropriate documents.

The parents or guardian may withdraw their consent within 30 days from the date on which the documents were signed. The child is then immediately returned to the parents or guardian. If consent is not withdrawn within 30 days, the parents or guardian may apply to the court to have the child returned at any time prior to the granting of a Placement Order for the child.

Special Consent

Adoptions by special consent are permitted under Section 555 of the *Civil Code of Quebec*. These adoptions involve adopters who are related in some way to the child, such as grandparents, uncles and aunts, and step-parents. The written consent of the child's birth parents is required, and prospective adoptive parents apply directly to the court for a Placement Order. The DYP is not involved in this procedure.

Process

Once an appropriate adoptive home has been found for an eligible child, the adoptive parents and the DYP (where applicable) must apply to the Court for a **Placement Order**. Once the Placement Order is made, the DYP will provide, on request, a summary of the child's ancestry to the adopters, a summary of the adopters' ancestry to the child's natural parents, and/or a summary of the child's ancestry to the child, provided he is 14 years of age or older.

After the child has lived with the adoptive parents for at least six months, the adoptive parents apply for an **Adoption Order**. If the child has already lived with the adoptive parents prior to the issuing of the Placement Order, the required period may be reduced to three months, on application to the court. The court orders the child adopted following an application from the adopters, unless there is a report indicating that the child has not adjusted to the adoptive family. Where that happens, or if it is in the best interest of the child, the court may request further information, if deemed necessary.

Under Section 574 of the *Civil Code of Quebec*, once the Adoption Order is rendered, a child ceases to legally belong to the biological parents. The Adoption Order is irrevocable and creates for the adoptive parents the same rights and obligations as if the child had been born to them. In practice, however, children often maintain close relationships with some members of their biological family. Any judgement or order rendered in respect of an adoption can be appealed to the Quebec Court of Appeal.

An adoption cannot take place without the child's consent, if the child is 10 years of age or older. However, where a child under 14 years of age refuses to give consent, the court may defer its judgement or declare the child adopted. A child 14 years of age or older cannot be declared adopted if his consent has not been obtained.

International Adoption

Co-ordination of international adoption in Quebec is the responsibility of MSSS through its International Adoption Secretariat. Interprovincial adoptions are handled in the same way as international adoptions in Quebec.

Refundable Tax Credit for Adoption Expenses

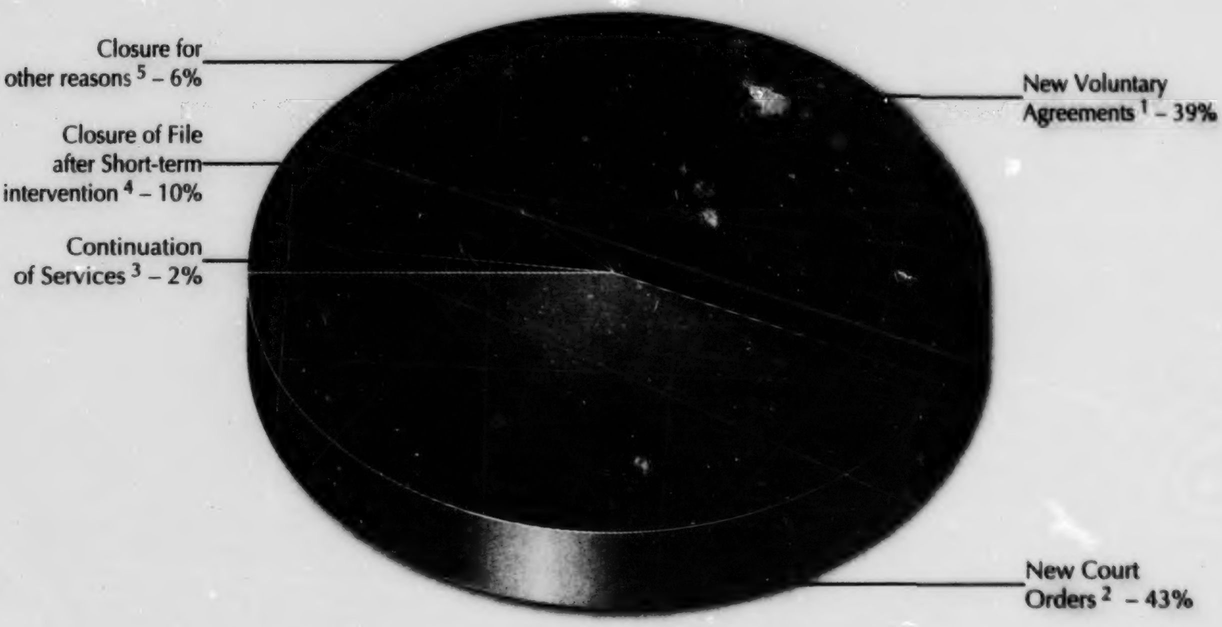
A Quebec resident who has incurred eligible adoption expenses may apply for a refundable tax credit in respect of each child adopted. For the 2000 taxation year, this is equal to a maximum of $3,750 per child.

Statistics

The data for Quebec should not be compared with the data for other provinces or territories due to the limitations explained in the Introduction.

Figure 5.1

Youth Protection Measures Undertaken By Type 1998–99



1 Voluntary measures are negotiated between the Director of Youth Protection, the parents of the child, and the child if over 14 years of age. The measures address the placement of the child, and the services required by the child and/or parents.

2 Court-ordered measures are determined by the Youth Division of the Court of Quebec, and address the same areas as voluntary measures.

3 Continuation of services (with or without modifications to the existing case plan) under the *Youth Protection Act*, either voluntarily or by Court order.

4 Closure after « Intervention terminale », a short-term intervention by the Director of Youth Protection on a voluntary basis.

5 Closure of the file for other reasons, such as: court denial of request, since it does not deem the child's security or development to be in danger as defined in the Act; inability to proceed; or transfer to another Youth Centre.

Total youth protection measures: 10,022

Resource Material

Legislative Material

Loi sur la protection de la jeunesse (Youth Protection Act), R.S.Q., c. P-34.1.

Code civil du Québec (Civil Code of Québec), S.Q. 1991, c. 64, amended by 1992, c. 57; 1995, c. 61; 1996, c. 21; 1996, c. 28 and 1996, c. 68.

Loi sur les services de santé et les services sociaux (An Act Respecting Health Services and Social Services), R.S.Q., c. S-4-2.

Code de procédure civile (Code of Civil Procedure), R.S.Q., c. C-25.

la Convention de la Baie James et du Nord québécois (James Bay and Northern Quebec Agreement), (1975).

la Convention du Nord-Est québécois (North-East Quebec Agreement), (1978).

Reports

Commission de la protection des droits de la jeunesse, *Loi sur la protection de la jeunesse,* annotated, 2nd edition, Société québécoise d'information juridique, 1990.

Groupe de travail sur la politique de placement en famille d'accueil, *Familles d'accueil et intervention jeunesse,* May 2000.

Other Resources

Ministère de la Santé et des Services sociaux, 1998, *Manuel de référence sur la protection de la jeunesse.*

« Manuel de référence sur la protection de la jeunesse » (Youth Protection Reference Manual).

« Guide d'intervention lors d'allégations d'abus sexuels envers les enfants » (Guide to Handling Allegations of Child Sexual Abuse).

« Cadre de référence en matière de mauvais traitements physiques faits aux enfants » Frame of Reference for Physical Abuse of Children).

« L'accompagnement des enfants et des adolescents lors de leur placement » (Placement Support for Children and Adolescents).

« Guide relatif à la divulgation de renseignements par le DPJ à la police et au substitut du Procureur Général » (Guide to the Disclosure of Information to the Police and the Crown Prosecutor by the DYP).

« L'orientation : Guide du choix de régime et de mesures » (Guide to Choosing a System and Measures).

« Guide pratique du service d'expertise psychosociale à la Cour Supérieure » (Guide to Psychosocial Expertise Provided by the Superior Court).

« Guide pratique en matière d'adoption d'un enfant domicilié au Québec » (Practical Guide to Adoption of Children Living in Quebec).

« Les services post-adoption au Québec » (Post-Adoption Services in Quebec).

Quebec government Web site: **http://www.gouv.qc.ca**

6 ONTARIO

Administration and Service Delivery

Administration

The Ministry of Community and Social Services (MCSS) is responsible for the legislation under which child welfare services are provided in the province of Ontario. *The Child and Family Services Act (CFSA)* and the associated regulations establish the obligations and powers of the Ministry, Children's Aid Societies (CASs) and other approved agencies.

The Integrated Services for Children Division of MCSS develops policies and programs for a range of services provided under the *CFSA*. These include services for native people, licensing of children's residential care facilities, use of extraordinary measures, young offender services, child welfare services, treatment and intervention services, and abuse/neglect prevention services.

The Director of the Child Welfare and Young Offender's Branch is responsible for the development and implementation of policy for the child welfare program, and reports to the Assistant Deputy Minister of the Integrated Services for Children Division, who in turn, reports to the Deputy Minister of Community and Social Services.

The Program Management Division of the Ministry is responsible for monitoring child welfare service delivery by CASs and contracted service providers. The Division monitors service delivery through a network of nine regional offices where program supervisors review and report on CAS compliance with Ministry standards and guidelines. The Regional Directors report to the Assistant Deputy Minister of the Program Management Division, who reports to the Deputy Minister of Community and Social Services.

Service Delivery Network

Ontario has 53 CASs, including five Aboriginal child welfare agencies designated as CASs. A CAS is operated by a Board of Directors, with an Executive Director (often referred to in the child welfare system as the "Local Director") and program and administrative staff. Each CAS is responsible for providing child welfare services in its mandated geographical area. The CAS Board has the legal responsibility under the *CFSA* and the *Corporations Act* for Society operations and expenditures. The Board sets the internal policy and strategic directions for the agency, approves the service plan and budget submission and hires the Executive Director. CAS Boards are accountable to the Ministry and the local community for the Society's performance.

Each CAS delivers services to the community that are tailored to meet the specific needs of the area for which the agency is responsible. Services are funded and partly defined through the MCSS Funding Framework. The Executive Director of the CAS is accountable to the Board and is responsible for the day to day management of the Society. Along with the Board, the Executive Director develops and maintains relationships with other service providers in the local community. Staff deliver direct services to clients within the Society's policies and procedures and in compliance with the *CFSA*, regulations, and Ministry standards and policy.

The *CFSA* includes a statutory requirement for every CAS to establish a "review team". The role of the review team is to provide the agency with professional advice or protection recommendations on child abuse cases that are referred to the team. The composition of the team includes individuals from the community who are professionally qualified to perform medical, psychological, developmental, educational or social assessments, and must include at least one legally qualified medical practitioner.

Whenever a Society refers the case of a child who may be suffering or has suffered abuse to its review team, the review team (or a designated panel of at least three of its members) reviews the case and recommends to the Society how the child may be protected. The review team considers all cases where there is a suspicion of abuse of a child who is under a Temporary Custody Order, or any other protection order, before the child is returned to the caregiver in charge when the abuse allegedly took place.

The Ontario Association of Children's Aid Societies and Native Child and Family Services of Ontario are provincial organizations that provide advice and assistance to the Ministry and Societies, represent the views of member agencies to government, provide training, and participate on task forces and committees dealing with child welfare matters.

Funding Framework

Historically, the funding for child protection had been shared by the Ontario government and the local municipalities. In 1998, the Ministry of Community and Social Services assumed responsibility for 100 per cent of Ministry-approved CAS expenditures. This was done within the context of realigning Ontario government responsibilities. A new funding framework for child protection was phased in over three years and fully implemented in 1999–2000. The purpose of the funding framework is to:

- emphasize investments in front-line protection services;
- move towards equitable funding of agencies based on demonstrated need for child protection services and standard benchmarks for key budget items;
- incorporate financial controls as well as incentives for cost efficiencies within agencies and across the province;
- include standard definitions and operational benchmarks including:
  - caseload sizes for front-line workers;
  - supervisory requirements for agencies;
  - salaries for front-line staff and supervisors; and
- provide appropriate funding for out-of-home care, including foster care boarding rates.

After Hours

The *CFSA* compels CASs to provide 24-hour services to the communities they serve.

Human Resources

The local Director of a Children's Aid Society has the authority to delegate staff as child protection workers within the set jurisdiction of any particular CAS. Each CAS has the responsibility of setting its own criteria and qualifications and for recruiting and selecting staff. As a result, some CASs require a minimum Bachelor of Social Work degree to qualify as a child protection worker, while others do not.

The Ministry of Community and Social Services plans to initiate requirements that CAS staff demonstrate minimum competencies prior to assuming delegated authority to act under the *CFSA*. Training for minimum competencies is available through the Ontario Child Protection Training Program (OCPTP). The program was designed to develop and enhance the knowledge and skills of new and experienced child protection workers and their supervisors. New workers are trained through classroom and self-directed learning, which is supported by mentored and coached field assignments that help transfer learning to practice. Each CAS retains discretion to use training and recruitment allotments under the Funding Framework to provide local training initiatives to meet the needs of its region. As of fall 2000, the OCPTP was in its pilot phase across the province.

Office of Child and Family Service Advocacy

The Office of Child and Family Service Advocacy (OCFSA) provides advocacy (except for advocacy before a court) on behalf of children and families who receive or seek services approved or purchased by CASs. The OCFSA is authorized under Section 102 of the *CFSA* to protect the rights of Ontario families who are receiving or seeking services through MCSS. The Office advises the Minister on issues concerning children and families who require advocacy in relation to services provided by the Ministry and for whom normal complaint procedures are not effective. The OCFSA also acts as a guarantor of children's statutory right to be informed regarding their right to a review of an admission to a secure treatment facility as established in Section 124(8) of the *CFSA*.

First Nations

Legislation

The declaration of principles of the *CFSA* asserts that one of the purposes of the Act is to: "recognize that Indian and native people should be entitled to provide, wherever possible, their own child and family services, and that all services to Indian and native children and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family" [Section 1(2,5)].

Where the court finds that a native child is in need of protection through a court order, Sub-section 57(5) states that before the child is made a Society or Crown Ward, and unless there is a substantial reason for placing the child elsewhere, the court shall place the child with: (a) a member of the child's extended family; (b) a member of the child's band or native community; or (c) another Indian or native family. Sub-section 61(2) establishes that after a child is made a Society or Crown Ward, the CAS should place an Indian or native child in residential placement in the same priority sequence as Sub-section 57(5).

Section 140 of the *CFSA* states that: "Where a child to be placed for adoption is an Indian or a native person, the society shall give the child's band or native community thirty days written notice of its intention to place the child for adoption." The regulations of the *CFSA* contain a complementary provision with respect to licensed adoption agencies.

If a child under assessment is an Indian or native person, copies of his or her assessment report must be provided to the Band or native community authority prior to its consideration (Section 54).

Section 37(4) refers to best interest of the child considerations, and the "recognition of the uniqueness of Indian and native culture, heritage, and traditions, of preserving the child's cultural identity".

Section 35 provides that where a child is an Indian or native person, residential placement advisory committees shall advise "a representative chosen by the child's band or native community" of its recommendations. Section 34 indicates that native issues should be considered in the conduct of the reviews of these committees. Further provision is made in Section 36 for a representative chosen by the child's band or native community to be party to a Child and Family Services Review Board hearing where a child is dissatisfied with a recommendation or the Committee's recommendation is not followed.

Provisions for standing before the courts specify Indian or native children in Sections 39 (child protection applications), 64 (status reviews) and 69 (appeals).

Agencies

Child welfare services for First Nations peoples on reserve operate under a funding agreement established through the Canada-Ontario Indian Welfare Services Agreement (1966). First Nations agencies in Ontario do not operate under trilateral or complementary bilateral agreements. Part 10 of the *CFSA* (Sections 208 – 213) permits the Minister to designate native communities and to enter into agreements for the purposes of the Act. These communities can then designate a service delivery body as a child and family service authority and secure consent from the Minister to function as a CAS with full or partial delegation of authority under the *CFSA*.

CASs or agencies providing services or exercising powers under the *CFSA* with respect to Indian or native children must consult regularly with their Bands or native communities about the provision of the services or the exercise of powers, and regarding case management matters affecting the children, including:

- the apprehension and placement of children in residential care;
- the placement of homemakers and the provision of other family support services;
- the preparation of plans for the care of children;
- status reviews regarding child protection;
- temporary care and special needs agreements;
- adoption placements; and
- the establishment of emergency homes.

There are currently five designated First Nations child welfare agencies in Ontario: Tikinagan, Payukotayno, Weechi-it-te-win, Abinoojii Family Services, and Dilico.

Definitions

Child

Section 3.1 of the *CFSA* defines a **child** as a person under the age of 18 years. Part III of the Act defines **child** for the purposes of child protection as not including those actually or apparently 16 years of age or older, unless the child is the subject of an order.

Child in Need of Protection

Amendments to Ontario's *CFSA* with respect to children in need of protection were proclaimed on March 31, 2000.

Section 37(2) of the *CFSA* states: "**A child is in need of protection where**,

(a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,

  (i) failure to adequately care for, provide for, supervise or protect the child, or

  (ii) pattern of neglect in caring for, providing for, supervising or protecting the child.

(b) there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,

  (i) failure to adequately care for, provide for, supervise or protect the child, or

  (ii) pattern of neglect in caring for, providing for, supervising or protecting the child.

(c) the child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;

(d) there is a risk that the child is likely to be sexually molested or sexually exploited as described in clause (c);

(e) the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment;

(f) the child has suffered emotional harm, demonstrated by serious,

  (i) anxiety,

  (ii) depression,

  (iii) withdrawal, or

  (iv) self-destructive or aggressive behaviour,

  (v) delayed development, and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;

(f.1) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;

(g) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;

(g.1) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm;

(h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition;

(i) the child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;

(j) the child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment;

(k) the child is less than twelve years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or

(l) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under this Part."

Child Abuse and Neglect

Ontario provides legislative definitions of the conditions under which a child is deemed to be in need of protection, i.e., the conditions that constitute child abuse and neglect. Child protection workers determine if the circumstances of a report constitute child abuse or neglect by using the *CFSA* and the Ontario Child Welfare Eligibility Spectrum (see Risk Assessment section).

Legislated Rights of Children

The statutory rights of children receiving the services or who are in the care of a CAS are defined in *Part V* of the *CFSA*. Children who are in care have the right to be informed of their rights under *Part V*, including the internal complaints procedure and the existence of the Office of Child and Family Service Advocacy. Children in care are also informed of the review procedures for children over 12 years of age who access voluntary services or are receiving services under the *Young Offenders Act*.

The *CFSA* provides for a child's right to participate in the development of a comprehensive plan of care that is designed to meet his or her particular needs while in the care of the CAS. A child in care has the right to be consulted and to express his or her views (to the extent that is practical given the child's level of understanding) whenever significant decisions concerning the child are made.

Under Section 39(4,5) of the *CFSA*, a child 12 years of age or more who is the subject of a child protection proceeding is entitled to receive notice of the proceeding and to be present at the hearing, unless the child would suffer emotional harm by participating. A child less than 12 years of age may receive notice of the proceeding and be permitted by an order of the court to be present at the hearing if the child is capable of understanding the hearing and will not suffer emotional harm by participating.

A child may have legal representation in any protection hearing. Legal representation may be directed by the court when it is considered desirable in order to protect the child's interests. Legal representation is provided to a child when there is a difference of views between the child and a parent or a CAS, when the Society proposes a change in custody, if the parent is a minor, or if no parent appears before the court.

Ontario has made substantial changes to its child welfare system since 1995, including making amendments to the *CFSA*, standardized requirements for service, and an accountability framework. Amendments to the 1984 *CFSA* make it clear that the paramount purpose of the child welfare system is to promote the best interests, protection and well-being of children.

The amended Act lowers the threshold for risk of harm to a child, expands and strengthens the duty to report, and makes it clear that a "pattern of neglect" is included in the grounds for finding a child in need of protection.

Child Abuse/Neglect Protocols

While requirements and standards for child protection investigation are set provincially, the province does not dictate the inter-sectoral protocols or agreements that local communities develop. Each CAS is independently operated and establishes protocols with other service providers that reflect local needs and conditions. The province has established model protocols that set out elements that should be considered for inclusion in local protocols. For example, the Ministry of Community and Social Services and the Ministry of the Solicitor General have developed a model protocol for police forces and CASs as a basis for reviewing existing local protocols involving law enforcement and child protection services.

There are various standard procedures and informal protocols established by individual CASs across the province to assist their working relations with such local agencies as the police force, the public school system, the public health system, and recreation facilities. These informal protocols are specific to the historical needs of the community and working relationships that are established within that community.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 72.2 of the *CFSA* states that every person who has reasonable grounds to suspect that a child is or may be in need of protection (as defined by the Act), must promptly report the suspicion and the information upon which it is based, to a CAS. "Reasonable grounds" are what an average person, given his or her background and experience, and exercising normal and honest judgement, would suspect to be abuse or neglect, or the risk thereof.

Professionals and officials working closely with children have a legal responsibility to report suspicions that a child is or may be in need of protection. Anyone whose work involves children may be considered to be a professional with respect to the *CFSA*. This includes workers in health care, teaching, recreation, law, counselling and other professions. Individuals who are unsure of their legal responsibility may clarify their status by contacting their local CAS or professional association. The professional's duty to report overrides the provisions of any other provincial statute, specifically those provisions that would otherwise prohibit a disclosure by the professional or official. Any professional or official who fails to report a suspicion based on knowledge obtained in the course of professional or official duties is liable on conviction to a fine of up to $1,000. Suspicions of abuse or neglect that are based on privileged information between a solicitor and a client are exempt from a solicitor's responsibility to report.

Anyone who reports a suspicion of abuse or neglect is protected from liability if a civil action is brought against them if the report was based on reasonable grounds and made without malice.

Investigation of Allegation of Abuse or Neglect

Who Investigates

After the receipt of a report of suspected child abuse, intake workers and ongoing caseworkers must document their decision regarding the response time within 24 hours.

All allegations of child abuse and neglect are considered against the standards for intervention that are set in the Ontario Child Welfare Eligibility Spectrum. Depending on the immediacy and seriousness of a report, the CAS will respond within 12 hours to seven days to a report, or a change in circumstances of an open case, through face-to-face interviews of all the minor children in the family under investigation. Situations where the immediate safety of a child is a concern are investigated immediately.

When a case is evaluated as requiring a child welfare intervention on the basis of suspected neglect, physical or sexual abuse, the police are usually informed and steps are taken to conduct an investigation. Child protection investigations may be conducted by the CAS alone (with or without a report to police), by parallel investigations involving police and the CAS, or by a joint investigation conducted by the CAS with the police. The specifics of the joint investigation process are defined in protocols that are established between each CAS and the police force in the area.

Warrants

Under Section 40 of the *CFSA*, child protection workers may apply to a justice of the peace for a warrant to bring a child to a place of safety on the basis of reasonable and probable grounds that the child may be in need of protection. This warrant assigns to the child protection worker the authority to enter any premises specified in the order to remove the child to a place of safety (apprehension). A worker may enter any premises and apprehend a child without a warrant if the time required to obtain one would endanger the child. The worker may call for the assistance of a police officer to carry out a search and removal of a child in accordance with regulations, using force if necessary. Police officers in Ontario also have the powers of a child protection worker to enter premises, search for and apprehend a child when no child protection worker is immediately available.

The *CFSA* establishes the conditions under which a CAS may apply to the court or a justice of the peace for a warrant for access to records relevant to an investigation. If a CAS believes that there are reasonable grounds for a warrant but it is impractical for the Director of the CAS, or designate, to appear personally to apply for it, there are provisions for application through a tele-warrant system, which employs telephone or other telecommunication technology.

Risk Assessment/Risk Management

The Risk Assessment Model for Child Protection in Ontario is a standardized framework designed to assist child protection workers in their casework and support shared decision-making with their supervisors. The model is used throughout the duration of the child protection worker's involvement with the child and the family.

It addresses 11 critical decision points in the life of a case, beginning with determining eligibility for services using the Eligibility Spectrum.

The Eligibility Spectrum is used to support the worker in making consistent decisions about eligibility for service when referrals or reports are received on child abuse and neglect cases. It is designed to assist workers to determine which allegations of child abuse and neglect are investigated in both ongoing cases and newly reported cases. The Eligibility Spectrum addresses all the reasons for child welfare intervention that are contained in the *CFSA* and classifies the typical situational aspects of the case on a scale of severity. When a case conforms to a level of severity that calls for intervention, a mandatory protection intervention takes place, according to practice standards.

The Risk Assessment Model for Child Protection in Ontario also provides a series of ongoing case decision points that assist workers to make decisions about removing a child from a dangerous situation, guide the strategy for reducing risk to the child, and focus efforts to build family strengths and resolve problems. The risk assessment model is also used as the basis for subsequent case reviews and case closure.

A plan of service for a child in need of protection and the child's family is developed to achieve risk reduction for all the factors identified in the risk assessment. The information gathered in the investigation and assessment process is directly linked to the interventions identified through the use of the risk assessment model.

Ministerial Role in Investigation of Third Party Abuse

CASs are responsible for protecting children at risk of abuse and neglect at the hands of their parents or others in charge of their care. The grounds for being deemed in need of protection by the CAS include the requirement that the harm or risk of harm be caused by the actions or inaction of the person who had charge of the child. Harm of a child by a third party (that is, a person not having charge of the child) is investigated under the *Criminal Code* by the police. If police have reasonable grounds to suspect that the parents or the person having charge of the child failed to adequately protect the child, a referral would then be made to the CAS.

Investigation of Child Deaths

All deaths of children who have received child welfare services in the preceding year are reported to the local coroner within 24 hours. Representatives from MCSS meet with the Coroner's office monthly to monitor this reporting protocol. After a reportable child death occurs, the CAS involved in the case provides circumstantial information to the Regional Office within 24 hours; the Regional Office then reports the death to the main Ministry office within the same time frame. A second, more detailed report reviewing CAS compliance to legislation and standards of practice is due at the Coroner's office and the Regional Office within seven days. The local MCSS office can request that a further internal review be reported within 60 days, if it is deemed necessary. MCSS can also request an independent, third party review of standards and agency compliance.

A multi-disciplinary child death review committee chaired by the Deputy Chief Coroner of Ontario reviews eight to ten cases per month of child deaths in the general population in Ontario. The membership of this Paediatric Death Review Committee includes the Executive Director of the Ontario Association of CASs and other child welfare experts. Cases are summarized and reported collectively and may include recommendations to agencies and government that will prevent similar deaths. All deaths of children under two years of age are evaluated by the Coroner with full body x-rays and toxicology analysis. An autopsy may be waived if the child died of a documented terminal illness or if the family's religious beliefs dictate burial within a limited time span. Testing for sexual abuse is done only if circumstances suggest it is necessary.

Child Abuse Register

Purposes of Register

The *CFSA* mandates the Ministry to retain records of child abuse in the Child Abuse Register. The Ontario Child Abuse Register is a confidential, centralized index of information on persons verified by a CAS to have abused a child, and on the children who are victims of that abuse. The Register is meant to protect children and prevent child abuse. Its specific purposes are:

- to learn more about child abuse in Ontario, both for research and practice purposes;
- to assist in tracking abused children, their families, and suspected abusers so that protection efforts may continue uninterrupted; and
- to monitor child abuse case management and programs of Children's Aid Societies.

All CASs are required to report all verified cases, and *CFSA* regulations require CAS workers to check the Register when investigating all allegations of child abuse.

Rights of the Registered Person

The *CFSA* requires that every person who is registered in the Child Abuse Register be notified in writing of his or her registration. The *CFSA* provides the right for a registered person to inspect the register, to request the removal of his or her name and, if denied removal, to have a hearing to review the request. If the matter is referred to a hearing, a decision about the appropriateness of the registration of the name will be made on the basis of the existence of "credible evidence" supporting the registration. This threshold is lower than the criminal law standard of proof, which is "beyond a reasonable doubt", or the civil standard of proof, which is "the balance of probabilities". Thus, alleged abusers' names may be retained on the Register even if charges are dismissed or there have been no other findings by a court. If such a hearing recommends that the person's name remain in the Register, the individual may appeal the decision to the Divisional Court.

Access to Information

Access to the information held in the Ontario Child Abuse Register is restricted to persons authorized under the *CFSA*: CASs, the Children's Lawyer (the official legal advocate for children in Ontario) and the Coroner. The Register was not designed as a screening mechanism. As such, the *CFSA* does not allow the Register to be used by a CAS or any other agency or employer to screen prospective volunteers or employees who might work with children.

The Ontario Child Abuse Register is linked to the Fast Track Information System, which is available to the 53 CASs on a 24-hour basis. The system allows child protection workers to check for a client's prior contact with other CASs in the province; provides electronic access to the provincial Child Abuse Register to see if the client has ever been subject of a child abuse investigation; and lets workers determine if the client is the subject of a child protection alert issued by another CAS or by authorities in other jurisdictions. Any child welfare case that is open or has been closed within the preceding 10 years can be searched by CAS workers through Fast Track.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases); or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

The *CFSA* specifies that the least intrusive appropriate intervention should be used to support families and protect children, as long as it promotes the paramount purpose of the *CFSA*. **Voluntary Service Agreements** for services delivered in the family home can be made between families and service providers with the approval of the CAS and without a court hearing. Voluntary provision of support services to a family in their own home may be used in cases of child abuse or neglect where the safety of the child can be assured. In some of these situations, both parties sign a formal contract outlining responsibilities of the family and the CAS.

Where it is necessary for the child to be removed from the home, two formal agreements specified in the *CFSA* may be used to allow the child to receive residential and support services of a CAS voluntarily. Under these voluntary agreements, parents remain the legal guardians of the child and may continue to exercise some parental responsibilities.

A **Temporary Care Agreement** allows for the temporary transfer of custody of a child to a CAS with the agreement of the parent and consent of a child over 12 years of age (except where the child does not have the capacity to consent because of a developmental disability). Such an agreement may be used in certain cases of child abuse or neglect if the worker feels that a voluntary option is feasible. The initial agreement must be signed before the child's 16th birthday and can have a term of up to six months; it may be extended for up to a total term of 12 months.

The *CFSA* contains new provisions for the cumulative time that a child can be in the temporary care of a CAS. For children under the age of six, the cumulative time is 12 months, and for children six years and over, the cumulative time is 24 months. In both cases, the court can order a six-month extension, based upon the best interests of the child.

A **Special Needs Agreement** is used when the special needs of a child are such that the parent is unable to meet them. The agreement may provide for services in the child's home or for care and custody of the child by a CAS or the Minister of Community and Social Services (in the instance of services provided directly by the Ministry Regional Office). A Special Needs Agreement is not used in the case of abuse or neglect.

A sixteen or seventeen year old youth who has a special need and requires residential and/or other services of a CAS or another agency may also enter into a Special Needs Agreement with a CAS or the Minister. Youth who have left the family home for self-protection, have been abandoned by the parent(s), or whose parent(s) have refused to provide support can negotiate a Special Needs Agreement directly with a CAS. The agreement may have an initial term of up to one year, with a possible extension of up to one additional year.

Court-Ordered Protection

When a child has been apprehended, or voluntary arrangements to support the family have been unsuccessful in protecting the child, an application can be made for a protection hearing in the Unified Family Court or the Provincial Court of Ontario (Family Division). If the court finds that the child is in need of protection, one of four court orders may be made in the best interests of the child. These orders cannot be made for a child 16 years of age or older without the child's consent.

Under a **Supervision Order** the child is placed, remains with, or is returned to the parent or a relative or other member of the child's community under the supervision of a CAS. The court may specify terms and conditions regarding the child's care and supervision to the guardian, the child, the CAS or other party to the court proceeding. The duration of a Supervision Order is from three to 12 months and may be extended indefinitely.

A **Society Wardship Order** places a child in the care and custody of a CAS for up to 12 months. The parent relinquishes guardianship of the child to a CAS for the full term of the order. For children six and over, the 12-month term may be extended for a period that does not exceed 24 months in temporary care by order and/or agreement. A Society Wardship Order for a specified period may be followed by a Supervision Order, but both orders must not exceed a total term of 12 months.

A child may be made a permanent ward of the Crown under a **Crown Wardship Order** when the need for protection that justifies the order is unlikely to change within 24 months. A Crown Wardship Order permanently transfers care, custody and control of the child to the Director of Child Welfare, effectively transferring the role and responsibilities of the parent to the Director.

The *CFSA* directs the CAS that assumes Society or Crown Wardship of a child to choose a residential placement that represents the least restrictive alternative, respecting the religious, linguistic and cultural heritage of the child, as well as the child's wishes. Indian or native children are placed with a relative, a member of the child's Band, or an Indian or native family when possible.

The court may order the parent of the child to contribute to the child's care, based on the parent's ability to pay. Society and Crown Wardship orders end automatically when the child reaches age 18 years of age or marries.

Under Section 80 of the *CFSA*, a restraining order prohibiting a person's access to (or contact with) a child may be made instead of, or in addition to, one of the above orders. The CAS may not return the child to the person who is the subject of the order or to someone who may allow that person access to the child. The initial order must not exceed six months; however, the court may make an extension for additional periods of six months.

Appeals

Any child protection court order (except an order for assessment) can be appealed to the Superior Court of Justice in the district or county in which the order was made. The execution of a protection order is stayed for ten days following service of the notice of appeal. Pending the outcome of the appeal, the child remains in custody or a Temporary Order is made.

Extended Care

All former Crown wards are eligible for Extended Care and Maintenance (ECM) at any time between their 18th and 21st birthday. ECM agreements for financial support and other services are negotiated between the youth and the CAS, and must define the youth's goals and the plans made to achieve them. The maximum financial assistance provided through an ECM is $633.00 per month. Additional expenses (e.g., dental, health care costs) that are not normally covered by the monthly allowance may be covered by a CAS in special circumstances. ECM agreements are reviewed annually at a minimum and can be changed when circumstances warrant. Other non-financial forms of support are also available to former Crown Wards, such as residential or counselling services. In addition, some CASs have independent living programs for 16 to 18-year-old youth who have been in their care.

Support Services

Voluntary Intervention Services

Each CAS determines what blend of support services (voluntary and court ordered) is required by the community it serves. As such, the services vary widely across the 53 CASs and are responsive to local needs. The Ministry Funding Framework has a portion earmarked for services other than protection investigations and child protection services, and each CAS Board of Directors determines its use (in purchasing or providing voluntary services) within that broad category. CASs may also contract services from community organizations.

Placement Resources

Foster Care

The various placement resources that are utilized by CASs operate at arm's length from the Ministry. The Ministry is responsible for the licensing of residential care facilities and programs for children (e.g., group homes, foster care, and other residential facilities such as mental health programs). CASs may directly operate group homes, receiving homes and foster care, or they may purchase services from licensed independent private operators.

Each CAS is responsible for the recruitment, approval and management of foster homes in its jurisdiction. Alternatively, the Ministry can license an individual or organization for the purposes of recruiting, approving, and managing foster homes. Every CAS or licensee must develop and maintain policies and procedures regarding the operation of affiliated foster units, including a classification system, a supervision system, an annual evaluation system, procedures for recruiting, screening and selecting foster parents, and an up-to-date list of approved homes. While foster care policies may differ among CASs and licensees, the Ministry has established uniform regulations and guidelines governing the delivery of service and management of foster homes.

For the purpose of ensuring compliance with the *CFSA*'s licensing statutes and the operational regulations, a program supervisor may enter the premises of a licensee, a children's residence, or a place where a child receives residential care, and inspect the facilities, the services provided, the books of account and the records relating to the services.

The Ministry defines three categories of foster care (regular, special and treatment) under the Child Welfare Funding Framework. CASs and service providers managing foster homes may develop their own method of classifying homes based on these suggested categories. All foster care providers must also keep lists of homes approved as emergency placements for children removed from their homes in crisis situations.

Regular Foster Care

Regular foster care homes provide all the essential elements of family life that a child needs, based on a safe and healthy family environment. Generally, the foster family integrates the child into their normal daily routines and activities, thus meeting the child's needs. No more than four unrelated children and no more than two children under the age of two years may be placed in one home.

Specialized Foster Care

Specialized Foster Care is designed to meet the needs of children with identified developmental, emotional, medical or physical exceptionalities. The goal of a specialized foster home is to accommodate the child within a foster setting where his or her special needs are addressed on an ongoing basis and in a manner in which the child is encouraged to function at maximum potential.

Specialized Foster Care homes provide specific treatment or use behaviour management strategies to ensure the physical and emotional well-being of the child. The Society (or licensee) is responsible to see that special training and/or particular skills training required by foster parents is provided. No more than two children may be placed in a Specialized Foster Care home at any time and one parent must be at home on a full-time basis.

Treatment Foster Care

Treatment Foster Care is intended to provide for children who require community-based treatment to meet their complex needs. The children generally require individual programs developed by their foster parents and social worker to assist them in overcoming behaviours stemming from histories of neglect, abuse, deprivation and instability.

Treatment Foster Care parents work in full partnership with the child's case/treatment team and collateral professionals to formulate treatment plans based on defined goals and objectives. The overall goal of Treatment Foster Care is to facilitate the attainment of emotional development, social skills and life skills in a time-limited program in order to prepare the child for permanent placement. Up to 24 days per year of respite is provided for all levels of foster caregivers.

Investigation of Allegations Against Foster Homes

Investigations of allegations against foster homes are subject to the same requirements as other allegations of abuse or neglect set out in the Risk Assessment Model, Child Protection Standards, and *CFSA* regulations. Local CASs in Ontario negotiate directly with their Foster Parent Association, and many operate with additional local guidelines for investigating reports made against foster caregivers.

A representative of the CAS or licensee must respond to any inquiries by, or complaints against, foster parents within 24 hours and investigate within required timeframes. The foster parents must be informed of the investigation outcome within five days. If a child who is 12 years of age or over objects to a particular placement, the child is entitled to a review by the Residential Placement Advisory Committee.

Allegations against day care staff, CAS staff and others engaged in professional relationships with children are also subject to the standard requirements for investigation. The Ministry has established a standard outlining the considerations to be taken into account during the investigation of an allegation of abuse involving a CAS foster parent, volunteer or staff member.

Group Care

Group care provides residential services and associated care and supervision for up to ten children in a parent model or staff model residence. Generally, the facilities are operated privately by incorporated organizations. Individual CASs may also operate Ministry-approved group homes through a service contract that is funded as part of the overall CAS budget.

Children receiving group care who have social, emotional or behavioural problems have access to more sophisticated treatment programs, provided by personnel such as psychiatrists, nurses and special educators. These group care programs may include secure treatment programs.

Some group homes provide child welfare services to older children in need of protection who do not have major emotional or behavioural problems; generally, these children are on a long-term placement. These homes may also be used for short-term placements such as a) emergency homes, which accept children on a 24-hour basis to alleviate a crisis situation; b) receiving homes, which accommodate children when they first come into care; or c) assessment homes, in which staff determine the plan of care for the child.

Adoptions

Private Adoption

Private adoption is arranged in Ontario by a licensed individual or a licensed private adoption agency. Licenses are issued by the Ministry of Community and Social Services and licensees may only charge adoptive parents for expenses that are prescribed in the *CFSA* and its regulations. The licensee or licensed private agency acts as a liaison between the birth parents, the adoptive applicants and the Ministry. It is the responsibility of the licensee to provide the birth parent(s) with an opportunity to seek counselling and independent legal advice with regard to the consent to adoption.

After the birth of the child, the birth parent(s) may choose to remain firm in their adoption plan and the child may be placed from hospital with the adoptive parents, or in a foster home until all consents are valid. The consents are signed only after the child is fully seven days old and are they are binding 21 days after the date of signing. The parent(s) may revoke their consent within this period. Once the 21-day period has expired, a child who has been placed for adoption cannot be reclaimed by the birth parents without the consent of the court. In the case where a private adoption breaks down, the licensee is responsible for advising the Ministry and arranging another placement for the child, subject to the Director's approval.

Children's Aid Society Adoption Services

Parents who wish to relinquish a child to a CAS for adoption may sign a consent to the adoption any time after the baby is at least seven days old. After this signing, the parents have 21 days in which they can reconsider and rescind their consent. This reversal of decision must be made in writing to the CAS or to the court that was named in the consent form. A parent who is under 18 years of age must have one of the Official Guardian's office staff explain parental rights before any adoption documents are signed. The child may be placed in a foster home until a suitable adoptive home is found.

Another option is to have the child made a ward of the Crown. The parents of the child appear in court before a family court judge who considers the facts, and may decide to make the child a ward of the Crown. The responsibility for planning for a child who is a Crown ward is given to the CAS, which develops an adoption plan for the child. In some cases, the judge may make the child a Society ward for a short time so the parents are able to make a plan for the child. The child is usually placed in a foster home, and during this time the parents can visit the child. A Society ward cannot be adopted, because the parents retain parental rights; consents for adoption from the parents are required before an adoption plan can be made.

Although ultimately an adoption placement must meet the needs of a child, birth parents can have significant input into the selection of the family. If the child is older, he or she will also be part of this decision.

Step-Parent/Relative Adoption

Step-parent and relative adoptions (by a grandparent, great-aunt/great-uncle, or aunt/uncle) are governed by the *CFSA* but do not require the involvement of a CAS or adoption licensee. Individuals interested in pursuing such an adoption in Ontario should obtain the services of a lawyer as consents from adults for adoption are taken by an independent lawyer. Consents from children to be adopted by a step-parent or relative, and from minor-age birth parents, are taken by a representative of the Office of the Children's Lawyer. Once all required consents have been taken, an application for an Adoption Order can be submitted. The Adoption Order is then made in Family Court.

International Adoption

The *Intercountry Adoption Act* implemented the Hague Convention in Ontario and set provincial requirements for all international adoptions completed in other countries. These requirements, based on the *CFSA* and the Hague Convention, also apply to countries that do not participate in the Hague Convention, as far as it is possible under international law.

For the purposes of the Convention's application in Ontario, the Central Authority for international adoption is the Ministry of Community and Social Services. Private adoption agency licensees may perform the functions of the Central Authority if they meet the qualifications for an accreditation under Article 11 of the Hague Convention. There are currently 15 adoption agencies licensed in Ontario.

Post-Adoption Services

Adult adoptees who wish to access non-identifying information about birth parents can do so through the CAS that arranged their adoption. Information about private adoptions completed after 1985 can be obtained by contacting the licensed agency or the individual who arranged the adoption.

Requests for reunions and searches related to adoptions that have taken place in Ontario, including requests for identifying information and updates to family information, are handled by the Adoption Disclosure Register (ADR). The ADR provides two essential services:

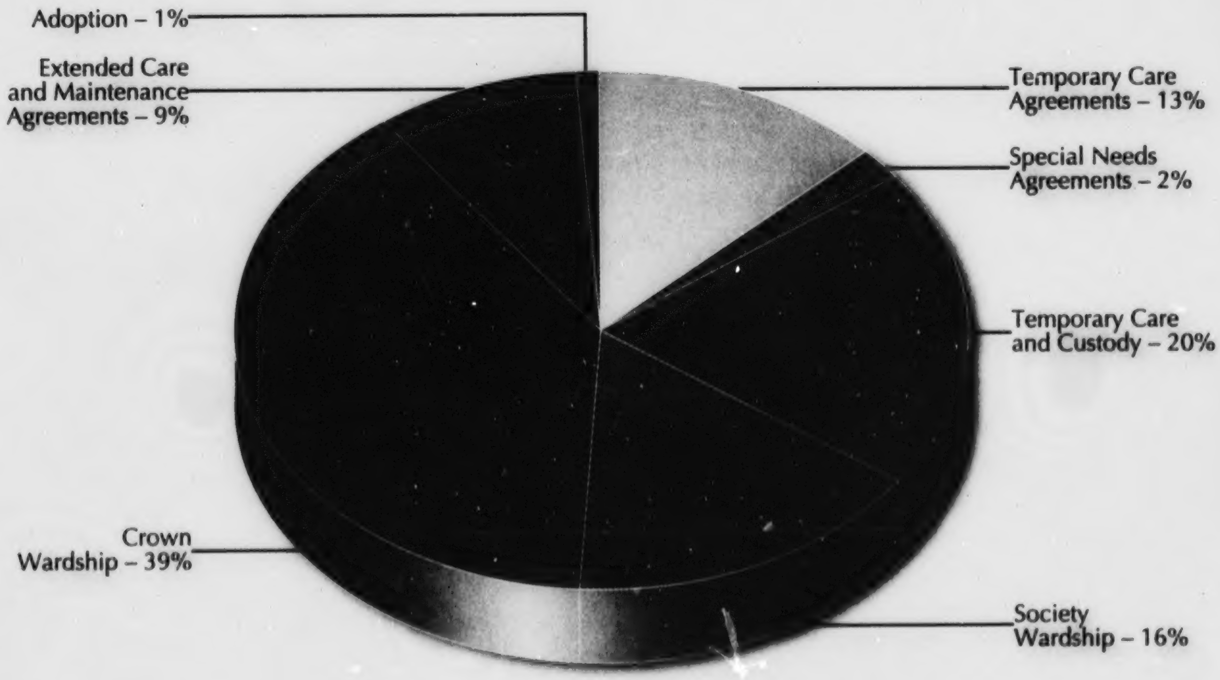
- a register for those adult adoptees, birth parents and birth relatives (siblings and grandparents) who wish to contact each other and/or exchange updated information; and
- a search for birth parents and specific birth relatives at the request of an adoptee who is 18 years of age or older.

Statistics

Due to the limitations noted in the Introduction, Ontario data should not be compared with data for other jurisdictions.

Figure 6.1

Legal Status of Children in Care as at December 31, 1999



* Note: These data are based on new definitions introduced April 1, 1999. The data is being continuously reviewed for integrity.

Children in care: 13,343

Resource Material

Legislative Material

The Child and Family Services Act, R.S.O. 1990, Chapter 11.

Corporations Act, R.S.O. 1990, Chapter C. 38.

Intercountry Adoption Act, R.S.O. 1998, Chapter 29.

Report

Ministry of Community and Social Services, *Child Welfare Accountability Review 1998 (Final Report).*

Office of the Child and Family Service Advocate, *Voices from Within: Youth Speak Out* 1998.

Other

Ministry of Community and Social Services, *Risk Assessment Model for Child Protection in Ontario (includes Eligibility Spectrum) 2000.*

Ministry of Community and Social Services Website: **http://www.gov.on.ca/CSS/**

Pamphlets

Queen's Printer for Ontario, 2000. *Reporting Child Abuse and Neglect ISBN 0-7778-9391-6.*

7 MANITOBA

Administration and Service Delivery

Administration

The Child and Family Services Division is one of five divisions within Manitoba's Department of Family Services and Housing. The Child and Family Services Division consists of seven programs, including Child Protection and Support Services (child welfare services).

Child Protection and Support Services administers the following three acts: *The Child and Family Services Act*, (the *CFS Act*); *The Adoption Act*, and *The Intercountry Adoption* (Hague Convention) *Act*. Child Protection and Support Services operates as the central directorate and provides funding and program/administrative support to child and family services agencies, residential child care facilities and other service organizations. The Executive Director of Child Protection and Support Services is designated under legislation as the Director of Child and Family Services (the Director).

Under the *CFS Act*, the Director is responsible for the provision of protection, residential care and family support services in Manitoba. The Director also administers *The Adoption Act* and is responsible for adoptions conducted by licensed adoption agencies or child and family services agencies.

Service Delivery Network

Child welfare services in Manitoba are provided through regional offices of the Department and external (non-governmental) organizations or agencies.

As of September 2000 there were 19 child and family services agencies mandated to provide services under the *CFS Act* and *The Adoption Act*. These include:

- five designated regional offices providing services in areas of the province where services are not provided by external incorporated or First Nations agencies;
- nine external First Nations agencies providing services on reserve in First Nations communities set out in regulation; and
- five external incorporated agencies providing services to catchment areas set out in regulation.

The governance of child and family services agencies varies, depending on the type of agency. Regional offices are part of the Department of Family Services and Housing and report on operations to the Executive Director of Regional Operations. Regional offices report on child welfare program issues to the Director of Service Delivery and Compliance who reports to the Director. First Nations agencies are governed by boards of directors; however, the boards are chaired either by Chiefs or by persons appointed or elected by member First Nations. First Nations agencies and boards are not subject to provincial legislation governing corporations; the governance of these agencies is determined through agreements with the province. Incorporated external agencies operate as non-profit corporations and are also governed by boards of directors.

All three types of agencies report to the Director with respect to the delivery of services under the *CFS Act* and *The Adoption Act*. Under both acts, the Director has the responsibility to establish standards and the power to issue directives.

All agencies are required under the *CFS Act* to establish child abuse committees to review alleged cases of child abuse and advise the agency as to what actions may be required to protect the child or other children. Mandatory committee membership must include the child abuse co-ordinator, a qualified medical practitioner, a representative of the local police, a teacher or other representative of the local school division operating within the agency boundaries, and an agency staff member other than the child abuse co-ordinator. Agencies may also appoint additional persons whom they consider would make a significant contribution to the child abuse committee. Under the *CFS Act*, child abuse committees are required to form an opinion on whether a person abused a child and whether the name of that person should be entered in the Child Abuse Registry. Committees are not involved in the investigation itself, but are active throughout the child abuse investigation phase to review, monitor and facilitate the involvement of other disciplines and provide recommendations to agencies.

The Director is the licensing authority for adoption agencies and all placement resources other than foster homes. Child and family services agencies are the licensing authority for foster homes.

The Youth Emergency Crisis Stabilization System (YECSS) is a joint initiative funded by the departments of Family Services and Housing, Health, and Education and Training. The leadership role in the development and delivery of the service has been assigned to Macdonald Youth Services – Youth Emergency Services. The system functions through a close partnership between Macdonald Youth Services, Winnipeg Child and Family Services, Ma Mawi Wi Chi Itata Centre Inc., Marymound Inc., Project Neecheewam, and Children's Hospital Emergency. The system is concerned primarily with high-risk children and youth and provides a 24-hour emergency crisis response seven days a week (see Support Services section).

Child Protection and Support Services also funds a number of other non-profit, non-governmental service organizations to provide a variety of preventive and supportive services to children and families.

After Hours Services

Mandated agencies are expected to provide services on a 24-hour basis. Administrative arrangements for night and weekend duty vary from informal arrangements to formal structures depending on the size of the agency and the communities served. Winnipeg Child and Family Services, the largest agency in the province, operates an after hours and emergency service (night duty unit).

Human Resources

Regulations under the *CFS Act* require adoption agencies, child and family services agencies, and residential care facilities to obtain and review criminal records, Child Abuse Registry and prior contact checks on any person who provides work or services to the agency. Prior contact checks involve checking for involvement with any agency that provides similar services, within or outside Manitoba. Persons contracted to work for agencies must have the same qualifications (education and experience) as employees of the agency who perform similar duties. Otherwise, hiring practices are at the discretion of the individual agencies and facilities.

Child Protection and Support Services provides comprehensive training for child and family services workers and youth care workers. This training employs a competency-based model developed with the Institute of Human Services in Columbus, Ohio. In-service training is available to all staff through a series of training modules – four for workers, four for supervisors, nine for youth care workers and eight related modules. In addition, individual agencies offer their own training programs that are relevant to cultural issues and the population served in a particular catchment area.

Manitoba is currently considering the need for provincial standards with respect to job entry and practice standards for persons working for, or providing services to, agencies and facilities. Consultation with educators, employers and other stakeholders will be an integral aspect of this developmental process. Presently, many agencies consider a Bachelor of Social Work or equivalent as the minimum qualification for child protection workers.

Children's Advocate

The office of the Children's Advocate (the Advocate) was established in 1993 and is governed by Part I.1 of the *CFS Act*. The Advocate is appointed by the Lieutenant Governor in Council as an officer of the Legislature and reports to a committee of the Legislature. The Advocate is mandated to "advise the Minister on matters relating to the welfare and interests of children who receive or may be entitled to receive services under this *Act*" (Section 8.2). The Advocate reviews and investigates complaints relating to services provided to children under the *CFS Act* and *The Adoption Act* and complaints from children who receive those services. The Advocate has been vested with statutory power to conduct inquiries and report on any matter relating to children or services under the *CFS Act*, inspect placement resources, and act as non-legal representation for children who receive services under the *CFS Act* and *The Adoption Act*.

The Advocate receives complaints and requests from children, members of the general public, the Minister, or the Standing Committee of the Assembly on Privileges and Elections. Children in the care of the Minister have the statutory right to communicate with the Advocate in person or in writing. The Advocate has the authority to require any person to furnish information (except solicitor-client privileged information) that is relevant to an investigation, and to produce relevant records.

The Children's Advocate provides an annual report to the Speaker of the Legislative Assembly. This public report contains non-identifying information about the activities of the Advocate and makes recommendations concerning legislation, policy, services, funding and the mandate of the Children's Advocate. Individual reports responding to requests to review or investigate matters relating to the *CFS Act* are also furnished to the Minister or the Standing Committee. Reports responding to a complaint about services to a child are provided to the parent or guardian of that child and to the child, if he or she is twelve years of age or older.

Aboriginal Services

Legislation and Policy

The *CFS Act* makes a number of references that affect services to Aboriginal people.

1. The Declaration of Principles (paragraph 11) states: "Indian Bands are entitled to the provision of child and family services in a manner which respects their unique status as aboriginal peoples."
2. Under Sub-section 2(1), the best interests of the child include consideration of a child's cultural, linguistic, racial and religious heritage.
3. Under Sub-section 6(14) of the *CFS Act*, the Minister may enter into agreements with an Indian Band or Tribal Council to provide services under the Act.
4. Under Sub-section 30(1), an agency applying to the court for a child protection hearing must serve notice on an agency serving the appropriate Indian Band where the child is believed to be registered or entitled to be registered under the *Indian Act* (Canada). Section 77 requires persons applying for guardianship of such a child to also notify the agency serving the appropriate Indian Band.

There are also standards and procedures intended to ensure the principle of unique status and the best interests of the child through:

- determination and documentation of Aboriginal status (Status Indian, Non-status Indian, Métis or Inuit);
- notification of First Nations agencies or Aboriginal organizations when voluntary placement or surrender of guardianship of Aboriginal children is proposed;
- completion of placement planning for Aboriginal children, according to placement priorities and involving First Nations agencies or Aboriginal organizations, within a maximum of 90 days;
- placement reviews at least once every six months, between placing agencies and First Nations agencies or Aboriginal organizations when non-Aboriginal placements of First Nations children are sustained for six months or more; and
- option to appeal to the Director to review placement planning for First Nations children within 90 days of a child coming into care.

Agencies

As of September 2000 there were nine mandated First Nations child and family services agencies serving 62 First Nations in Manitoba. Intertribal Child and Family Services and Sagkeeng First Nations were not incorporated under the *CFS Act*, but provided services through an administrative arrangement with mandated agencies.

There are currently two Aboriginal agencies providing a range of non-mandated services in Manitoba. Ma Mawi Wi Chi Itata Centre Inc. provides services to status and non-status Indians and Métis living in Winnipeg. Manitoba Métis Child and Family Support Services serves Métis people throughout the province.

System Restructuring

A process is underway to develop a jointly coordinated system that recognizes the distinct rights and authorities of First Nations, Métis people and the general population to control the delivery of child and family services province-wide for their respective community members. The initial development of a conceptual plan is to be completed by July 2001, with full implementation completed by October 2003.

Definitions

Child

Under Section 1 of *The Child and Family Services Act*, a **child** is defined as "a person under the age of majority" (i.e., under 18 years of age) for both child protection and adoption purposes. The Director may approve an extension of services to age 21 in certain circumstances.

Child in Need of Protection

Under Sub-section 17(1), a **child is in need of protection** "where the life, health or emotional well-being of the child is endangered by the act or omission of a person." Sub-section 17(2) illustrates that this may occur "where the child

(a) is without adequate care, supervision or control;

(b) is in the care, custody, control or charge of a person

  (i) who is unable or unwilling to provide adequate care, supervision or control of the child, or

  (ii) whose conduct endangers or might endanger the life, health or emotional well-being of the child, or

  (iii) who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;

(c) is abused or is in danger of being abused;

(d) is beyond the control of a person who has the care, custody, control or charge of the child;

(e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;

(f) is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;

(g) being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or

(h) is the subject, or is about to become the subject, of an unlawful adoption under section 63 or of an unlawful sale under section 84."

Child Abuse and Neglect

The *CFS Act* defines **abuse** as "an act or omission by any person where the act of omission results in;

(a) physical injury to the child,

(b) emotional disability of a permanent nature in the child or is likely to result in such a disability, or

(c) sexual exploitation of the child with or without the child's consent."

The *CFS Act* does not define neglect. However, the definition of abuse and the illustrations of a child in need of protection in the Act include situations that involve neglect of children.

Legislated Rights of Children

Children's rights are addressed in part in Section 2 of the *CFS Act*, which delineates the best interests of the child and identifies these interests as the paramount consideration in all proceedings under the Act. Children who are 12 years of age or older are entitled to be advised of all proceedings and their possible implications and be given an opportunity to make their views and preferences known to a judge or master (a master presides in the Court of Queen's Bench). Children under 12 years of age can have their views considered by the court if they are able to understand the nature of court proceedings and would not be harmed in becoming a party to them.

Under Section 34 of the *CFS Act*, a child who is the subject of a hearing may have legal counsel appointed by order of a judge. A child who is 12 years of age or older may, on consideration by the judge, have the right to instruct appointed legal counsel. Copies of protection or consent orders are provided to children 12 years of age or older who are the subjects of such orders.

Section 13 of the *CFS Act* provides for a homemaker to enter or to live in the home of a child who temporarily has no person available to care for him or her in that home. If no caregiver has been found within seven days after placement of the homemaker, the agency proceeds with a child protection assessment.

Child Abuse/Neglect Protocols

Child abuse protocols have been developed by a number of organizations in collaboration with the Department. These protocols contain definitions, reporting requirements and clinical or behavioural indicators. Protocols are currently in place for physicians, nurses, teachers, social workers, childcare workers and the general public. Child Protection and Support Services is currently developing new administrative standards for working with Community and Youth Corrections, Child Day Care, and Family Conciliation that will replace existing standards and guidelines. Protocols that are specific to the investigation and reporting of child abuse are described in the corresponding sections that follow.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 18 of the *CFS Act* states that in cases where a person has information that leads him or her to reasonably believe that a child is or might be in need of protection, that person shall report the information to an agency or to a parent or guardian of the child. This requirement applies even where the person has acquired information through a professional or confidential relationship (except for a solicitor-client relationship). Sub-section 18(1.1) states that a person must report only to an agency where the person:

(a) does not know the identity of the parent or guardian of the child;

(b) has information that leads the person to reasonably believe that the parent or guardian

  (i) is responsible for causing the child be in need of protection or,

  (ii) is unable or unwilling to provide adequate protection to the child in the circumstances; or

(c) has information that leads the person to reasonably believe that the child is or might be suffering abuse by a parent or guardian of a child or by a person having care, custody, control or charge of the child.

The "Manitoba Guidelines on Identifying and Reporting a Child in Need of Protection (Including Child Abuse)" were co-signed by the departments of Family Services and Housing, Education and Training, Health, and Justice. The guidelines contain detailed information on child protection, child abuse, mandatory reporting, the investigative process and the disclosure of investigation findings. The "General Protocol", prepared by the Department of Family Services and Housing, provides a general perspective to the public on the current legislation, the indicators of abuse and the legal requirements for reporting. This protocol is currently being revised.

Penalties for Not Reporting

A person who fails to report a child in need of protection commits an offence punishable on summary conviction. The *CFS Act* does not stipulate the amount of the penalty, nor is a penalty defined for false or malicious allegations.

Under Sub-section 18.2(1), where the Director has reasonable grounds to believe that a person has caused a child to be in need of protection or has failed to report suspected child abuse, the Director may report the person to his or her professional society, association or regulatory organization. The professional body will investigate the matter to determine whether the person's status should be reviewed or if disciplinary proceedings should be commenced and then advise the Director of any such determination.

Investigation of Allegation of Abuse or Neglect

Who Investigates

Under regulation, the child and family services agency must notify and consult immediately with the police on receiving information that causes the agency to suspect a child is, or might be, abused. A joint decision regarding the most appropriate means of investigation – joint, parallel, police-only or agency-only – is made with police wherever possible.

The agency is required to investigate any situation where a child may be in need of protection. Therefore, all referrals or reports of suspected child abuse are responded to, based on an assessment of the immediate safety of all children involved in the situation. A supervisor must review recommended response times exceeding 24 hours within 24 hours of the report. The agency is also required to complete a Report of Alleged Abuse which describes the allegation, the medical and police information, and the actions taken by the agency, within 30 days of a referral or report. This report is forwarded to the agency child abuse co-ordinator who ensures the child abuse committee reviews it.

Persons who report or refer suspicions of child abuse are advised of the outcome of the investigation at its conclusion unless the disclosure is not in the best interests of the child.

Warrants

Section 21 of the *CFS Act* empowers an agency or the police to apprehend a child deemed to be in need of protection and then take the child to a place of safety. A judge, master or justice of the peace may issue a warrant authorizing an agency or police officer to enter a place identified in the warrant to search for the child and to apprehend if the child appears to be in need of protection. A warrant to enter any premises to investigate a child protection situation is not required where there are reasonable and probable grounds to believe the child is in immediate danger or has been left alone and is unable to look after himself/herself. Police assistance may be requested to enter into any premises or to apprehend a child.

Mandatory Medical Examinations

When the agency believes serious injury or sexual exploitation has taken place, the agency must immediately consult with a duly qualified medical practitioner and where believed necessary and appropriate, arrange for a medical examination of the child and any other child by a duly qualified medical practitioner or at a medical child abuse facility. Further, standards require that an examination be arranged if sexual abuse is alleged to have happened within the past 72 hours or the child is in pain or a medical practitioner suggests that an examination is necessary. If parents refuse to permit a medical examination during the course of an abuse investigation, the Director may apprehend the child in order to proceed with the examination.

Risk Assessment/Risk Management

New case management standards require agencies to perform safety and risk assessments. A safety assessment must be completed whenever there may be immediate danger to a child.

A safety plan is developed when the child has been assessed to be "unsafe". Workers are required to complete the Safety Assessment form within a designated time frame. Risk assessment is a component of the Family Assessment. When a Safety Assessment has determined that children were unsafe, workers must complete a Family Assessment within 30 days from the date of opening of the case. When the child is "safe" or there are no protection issues, the worker has 60 days to complete the Family Assessment. The new standards require the worker to determine whether a family or child is high, medium or low risk. Assessments are not based on a specific risk assessment tool or instrument.

Provisions Specific to First Nation Peoples

Two days notice must be served to the appropriate First Nations Band if an agency makes an application for a protection hearing concerning a child whom the agency believes is registered or is entitled to be registered under the *Indian Act* (Canada). Agencies are required to file case particulars with the protection hearing application and serve the particulars concurrently with the application.

Departmental Role in Investigation of Third Party Abuse

Agencies are required to investigate referrals in situations of abuse involving persons other than a parent or guardian or involving persons having care, custody, control or charge of the child (i.e., teacher, babysitter, day care worker, coach, group leader or anyone in a position of trust with the child). Although the primary focus is on child protection, the agency may also advocate for and offer services to the victim and the victim's family.

Investigation of Child Deaths

The Chief Medical Examiner (CME) has the responsibility to review all child deaths. All sudden, non-natural or unexpected deaths of children are subject to a full autopsy including toxicology and sexual abuse tests.

The Children's Inquest Review Committee (CIRC), Canada's oldest multidisciplinary child death review committee, advises the CME regarding child death inquests. The committee is chaired by the CME and includes police, medical, child welfare and justice officials and an advisor from the Assembly of Manitoba Chiefs. All non-natural child deaths are reviewed, including deaths of children involved with a child welfare agency.

The Fatality Inquiries Act (FIA) provides for a confidential review by the CME of the actions of a child and family services agency, relative to current standards, where the agency was involved with the child or a family member within two years prior to the child's death. The CME submits a report on the review to the Minister of Family Services and Housing. The reports generally address case management, service provider and systemic issues. As of July 1999, the CME may publish an annual summary of these recommendations without disclosing the names of individuals or agencies or disclosing any information that might identify a child or the child's family.

Once the CME report is received by Child Protection and Support Services, staff identify the specific actions/background in the report that led to the recommendations, follow up with the agency to discuss the recommendations, and prepare a report on the agency indicating whether the recommendations have been met.

Child Abuse Registry

The Child Abuse Registry lists incidents of abuse where:

- an individual was either found to be, or pleaded guilty to an offence involving abuse of a child, or
- a family court found a child to be in need of protection as a result of abuse, or
- a child abuse committee concluded that an individual abused a child.

The Registry contains the abuser's name, the circumstances of the abuse and any sentence imposed. This information must be provided to the Director by an agency, a peace officer or the court.

Purposes of Registry

The Child Abuse Registry assists the Director, child and family services agencies, and peace officers to protect children by identifying individuals who have abused children in the past and are either involved in a current investigation or are applying to adopt, to work with, or provide services that involve contact with children.

Objections

Inclusion in the Child Abuse Registry based on court decisions is final. However, where there has not been a court decision and a child abuse committee is considering the situation, the committee has a process to hear information from the alleged abuser. If the committee concludes the person has abused a child, it is required to notify the person of the intent to register followed by a 60-day waiting period in which the person may apply for a court hearing before his or her name may be entered on the Registry.

Rights of the Registered Person

The names of abusers are removed from the Registry after 10 years have elapsed since the last entry relating to the person, or when the child who was abused attains 18 years of age, whichever is later.

Access to Information

Information contained in the Child Abuse Registry is accessed through application to the Director. In addition to child and family agencies, adoption agencies and peace officers, any organization that wishes to assess an individual who has access to children either as an employee or as a volunteer may apply for access to the Registry. Written consent of the person being assessed is required, except in child protection investigations. Persons who are registered may also apply to the Director to access information regarding themselves (information regarding the informant is withheld).

Information provided by the Registry depends on the type of agency/organization and the reason access is required. Employers and others must show that the information is necessary to assess the potential employee and that the work involves the care, custody or control of a child or permits or may permit access to a child. Agencies and licensed child care facilities are required by regulation to conduct Child Abuse Registry checks on persons applying to work for, or provide services to the agency or facility. Information provided to employers is limited to whether or not a person's name appears on the Registry.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases); or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

There are three types of service agreements under the *CFS Act*.

Family Support Service Agreements provide for homemakers or parent aides and may be made with families who require assistance or training to care for their children. A Family Support Service Agreement can be made for periods of up to six months, with extensions not exceeding one year. Agencies may provide family support services in one or more of the following circumstances:

- parents are absent;
- parents are unable to assume full responsibility;
- children are at risk of neglect or abuse; or
- children in the home have special needs.

Agencies may also place homemakers in a child's home for up to seven days without entering into an agreement as an alternative to apprehending the child.

In-home respite services for children with a mental and/or physical disability are available through Children's Special Services. These services are provided by regional offices of the Department of Family Services and Housing and not through a Family Support Service Agreement.

Voluntary Placement Agreements (VPA) enable an agency to take a child into care, and may be made with families who are unable to provide adequate care but want to maintain guardianship of the child. Under Section 14 of the *CFS Act* a parent, guardian or other person who has actual care and control of a child may enter into a VPA with an agency. VPAs may be used when illness or other circumstances temporarily prevent the parent from providing care; when the child has special needs due to a mental or physical disability; or if the child is 14 years of age or older and beyond the parent's control. Agreements may be made for up to one year. Where the agreement relates to the parent's circumstances, it may be renewed for one additional year only. All other agreements may be renewed annually until the child reaches the age of majority.

Daycare Service Agreements provide care for children for varying periods during the day and may be made only where licensed child day care services are not available or accessible.

Court-Ordered Protection

Where voluntary service options are not feasible and a child is believed to be in need of protection, the child is apprehended and an application for a protection hearing is made either to the Court of Queen's Bench (Family Division) or the Provincial Court (Family Division). The Court of Queen's Bench has exclusive jurisdiction in Winnipeg and Southeastern Manitoba. Both courts have concurrent jurisdiction in the rest of the province. Where a child is found to be in need of protection, the Court may make one of four status orders.

An **Order of Supervision** causes the child to be returned to the parents or guardian under the supervision of an agency, subject to the conditions and duration period that the judge considers necessary.

A **Third Party Placement Order** orders the child to be placed with another person whom the judge considers best able to care for the child, with or without a transfer of guardianship. Third Party Placement Orders are also subject to the conditions and duration period that the judge considers necessary.

Under a **Temporary Order of Guardianship** a child and family services agency is appointed as the child's guardian. The maximum duration of a Temporary Order and the total period of temporary guardianship are dependent on the age of the child. For children under five years of age the maximum duration of the order is six months and extensions cannot exceed 15 months; from five to 12 years of age it is 12 months, not to exceed 24 months; and for children over 12 years of age it is 24 months, renewable for 24-month periods up to age 18.

A **Permanent Order of Guardianship** appoints a child and family services agency as the permanent guardian of the child. This order effectively terminates parental rights and obligations and allows the agency to place the child for adoption. Parents have the right to appeal a Permanent Order of Guardianship within 21 days of the order and have up to a year afterward to apply to terminate the order if the child has not yet been adopted.

Manitoba legislation allows for the parties to a hearing to agree to **Consent Orders** in place of any of the orders described above. A Consent Order establishes a child's legal guardianship or custody or supervision status under the *CFS Act* where all parties agree to the terms and conditions of the order. Consent Orders can be made without the parties having to appear in court; however, the courts are reluctant to grant Permanent Orders of Guardianship without hearing evidence.

An agency can apply for an **Order Not to Contact a Child** when it has reasonable and probable grounds to believe that an individual has subjected, or is likely to subject, a child to abuse. This order directs a person to not reside in the same premises as the child or to refrain from any contact or association with the child. An Order Not to Contact a Child has a maximum duration of six months and may be extended for periods not exceeding six months.

Appeals

Any order pursuant to a judge finding a child in need of protection can be appealed to the Manitoba Court of Appeal within 21 days of the order being made. Orders made by a master can be appealed in the Court of Queen's Bench.

Extended Care

The *CFS Act* applies to children up to 18 years of age. Agencies are required to provide appropriate services to children including age-of-majority planning and youth emergency services.

Age-of-majority planning varies depending on the needs of the individual youth. Many youth receive assistance and support to move to independent living situations after being in care. In addition, under Sub-section 50(2) of the *CFS Act*, an agency may, with written approval of the Director, extend care and maintenance of a child who is a permanent ward up until the child's 21st birthday. This measure is intended to assist these youth to successfully complete the transition to independence.

Support Services

Voluntary Intervention Services

Under the *CFS Act*, agencies are required to provide services that are intended to prevent circumstances requiring the placement of children in protective care. The *CFS Act* allows agencies to provide these services directly or to contract for these services.

Services to families include information, education, counselling, special services, emergency assistance, day care, homemakers, parent aides and assistance to community groups to resolve problems that affect the ability of families to adequately care for their children. Emergency financial assistance may be provided only where income assistance is not immediately available under *The Employment and Income Assistance Act* or through Band assistance, and is limited to the purchase of food, clothing, transportation, or alleviation of immediate need.

Crisis Stabilization System

The community-based Youth Emergency Crisis Stabilization System (YECSS) provides a range of services that includes mobile crisis teams and brief treatment, a youth emergency educational unit, crisis stabilization, home-based crisis services and emergency in-patient psychiatric services. This system is designed to be flexible and to provide 24-hour-a-day services on an immediate basis. These services can also involve situating a trained worker in the child's or youth's home on a 24-hour basis or providing alternate care in another setting, which could include a bed in a stabilization or psychiatric treatment facility.

The two key elements of YECSS are:

- Mobile Crisis Teams: multi-disciplinary clinical teams, each with a clinically trained person and a youth care worker. The teams react quickly to acute emergency situations to stabilize crises, provide immediate assessment of treatment needs, and ensure the child's or youth's emotional stability and physical safety.
- Crisis Stabilization Units: two short-term residential program units – one six-bed facility for boys and one six-bed unit for girls. The units are located in Winnipeg and provide safety for children and adolescents who cannot safely stay in the community.

The Brief Treatment Team and Home Based Crisis Intervention are two ongoing support services that help maintain a stable environment and develop the skills and abilities that children, youth, and families need in order to deal with future crises. These services are available during any phase of a YECSS intervention.

Community Partnerships

The cities of Brandon, Lynn Lake, Dauphin and Winnipeg have developed community partnerships to protect children at risk through family group decision-making projects. Families are actively involved in problem solving, care planning and decision making in order to encourage family responsibility for developing healthy, safe plans for their own children. In each project, existing non-profit organizations such as Friendship Centres or local community-based agencies work in partnership with the local child welfare agency. These partnerships involve community-based approaches to service delivery with families who have experienced difficulty with the traditional service delivery approaches.

Placement Resources

Children's requirements for out-of-home care are established through either an agreement or a court order and are managed centrally. Admissions to residential treatment facilities are prioritized through a central provincial placement desk operated through the Director's office. The Department contracts licensed private residential services, which include group homes and treatment facilities for youth (predominantly 12 to 17-year-olds) whose needs cannot be adequately met in a substitute family setting. Group homes provide care and treatment for five to eight children, who usually have experienced abuse and/or neglect and exhibit emotional or behavioural difficulties as a result. Universal per diem rates are provided on the basis of number of residents, the size of the facility and its geographical location. A facility that provides services to children who require any one of three graduated levels of care may be designated as a receiving home and can be utilized for emergency placements.

Foster Care

The *CFS Act* defines a foster home as "a home other than the home of a parent or guardian of a child, in which the child is placed by an agency for care and supervision, but not for adoption."

Foster care is the primary placement resource for the majority of children in care. Over the past 10 years, there has been a trend to use foster care increasingly for the placement of children with special needs who might otherwise be placed in a residential setting. Whenever possible, children's needs are assessed prior to placement, then the children are matched to foster caregivers with the capacity and supports required to meet these needs. For children with high needs, the foster parent(s) may be paid a special rate.

Agencies receive funding for foster children through a combination of grant funding and billing. Foster homes are licensed by the agencies in accordance with regulation. Foster care providers who are refused a license or whose license is suspended, cancelled, or not renewed can appeal to the Director for a review. The Department establishes basic foster care maintenance rates with some variation for Southern or Northern Manitoba, and whether or not there is road access. Agencies also obtain special funds for foster children with the highest needs by billing the Department. In addition, "exceptional circumstances" funding is available through the Director for foster children with costly one-time needs or for ongoing financial support to foster children with severe mental, medical or physical disabilities.

A family placement rate applies for children placed in the homes of their relatives. This reduced foster care rate applies to basic maintenance only, not to special rates or exceptional circumstances funding. The family placement rate is based on provincial income assistance rates for single persons living in the home of relatives.

The Department has a provincial foster caregiver pre-service/orientation training program that is available to all agencies. Following an orientation to the foster care program, interested families must undergo an approval process which includes a family assessment, a building review, a medical reference, personal references, an Abuse Registry check, a prior contact check and a criminal record check. All foster homes must be approved before a child may be placed and the approval process is completed within 90 days of receipt of the initial enquiry. A foster license is issued to approved homes indicating the maximum number and the sex of children to be accommodated. Manitoba is currently considering a provincial competency-based training curriculum for foster parents.

Investigation of Allegations Against Foster Homes

Section 18.6 of the *CFS Act* requires the Director to investigate allegations of child abuse by persons who work for, or provide services to, agencies (including foster parents). On receiving information of possible abuse by a foster parent, an agency is required to immediately report the matter to the Director. Generally, the Director requests the licensing agency (usually the same as the reporting agency) to conduct the investigation and provide a report. When circumstances require, the Director may directly conduct the abuse investigation.

Legal counsel may be provided to members of the foster family through the Foster Parent Legal Aid Assistance program in the event that a foster child makes allegations of physical or sexual abuse.

Adoptions

The Adoption Act simplifies the adoption process and creates a more flexible, open system with increased access to services for birth parents, birth siblings and adoptive parents. Records of adoptions after March 15, 1999 will be open unless the birth and adoptive parents file a veto at the time of the adoption that prohibits contact, access to identifying information, or both.

The Adoption Act provides for the licensing of non-profit adoption agencies to provide adoptions for all children who are not permanent wards. Adoption applicants and birth parents can choose services from either a licensed adoption agency or a child and family services agency to adopt children who are not permanent wards of the province.

Adoption of children who are in permanent care via a court order or a voluntary surrender of guardianship will continue to be handled exclusively by child and family services agencies. Adoptive parents are required to pay fees for adoption assessments based on a sliding scale. *The Adoption Act* does not provide for the licensing of private practitioners.

The Adoption Act provides for the following adoption categories: permanent wards, private, intercountry, de facto, extended family, stepparent, and adult. While *The Adoption Act* does not recognize custom adoption (e.g., by Aboriginal tradition) the de facto and extended family adoption categories are intended to facilitate a traditional adoption by extended family members.

Responsibilities of the Director include administering *The Adoption Act*, licensing adoption agencies, providing advice and support to agencies, and establishing standards. The Director maintains a central adoption registry for permanent wards and approved adoptive families. Children cannot be placed for adoption outside of Manitoba unless approved by the Director, or outside of Canada unless approved by Cabinet.

International Adoption

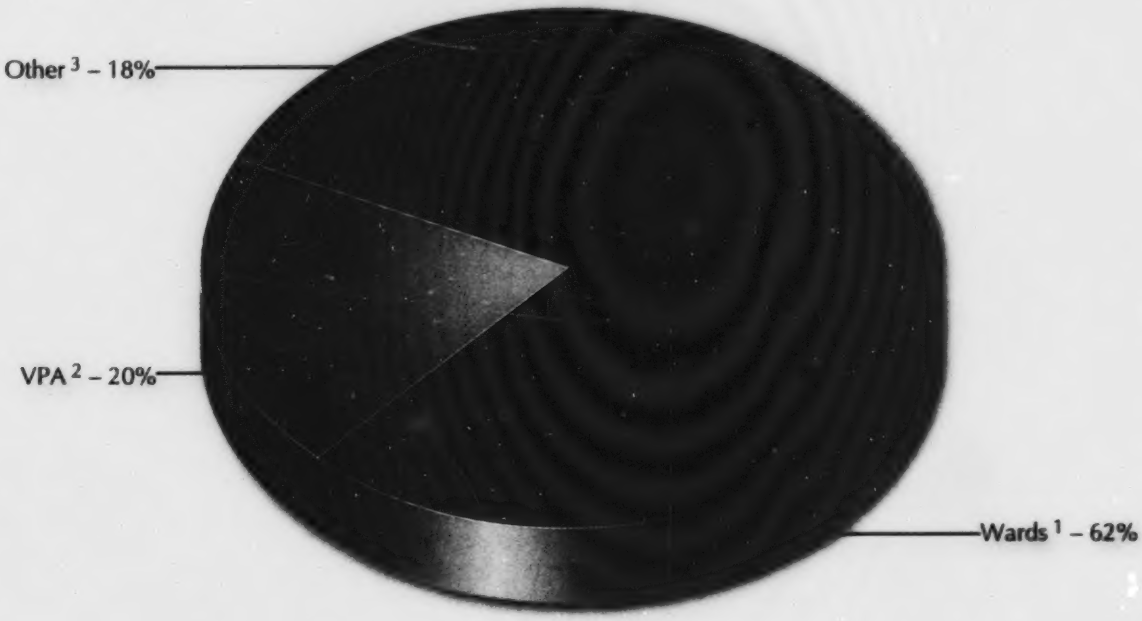
Manitoba is a signatory to the Hague Convention on intercountry adoptions and has designated the Director of Child and Family Services as the central authority for the province.

Statistics

Due to the limitations noted in the Introduction, Manitoba data should not be compared with data for other jurisdictions.

Figure 7.1

Children in Care by Legal Status as at March 31, 1999



1 Includes the following legal statuses: Temporary Order of Guardianship, Permanent Order of Guardianship (including extensions) and Voluntary Surrender of Guardianship Agreement.

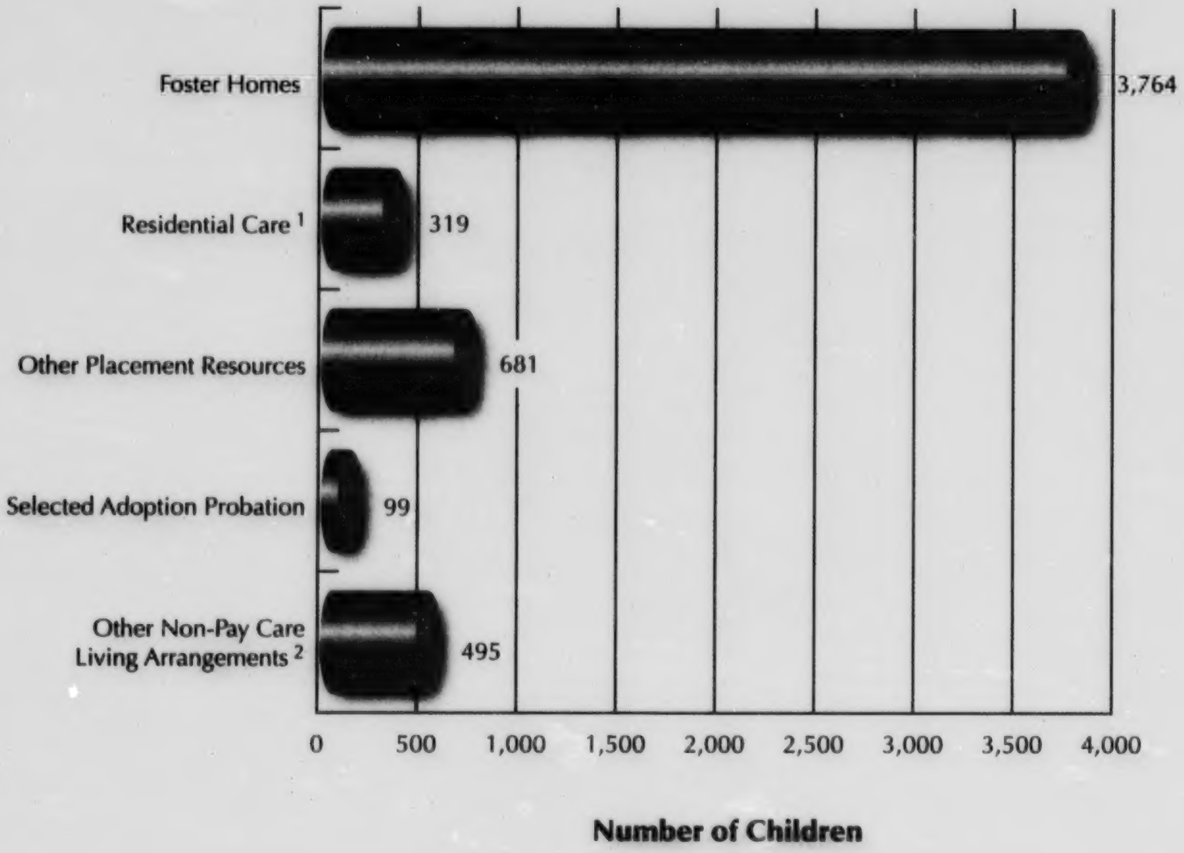
2 Voluntary Placement Agreement.

3 Includes apprehensions and wards of other jurisdictions.

Children in care: 5,358

Figure 7.2

Children in Care by Placement Type as at March 31, 1999



1 Includes private group homes, own-agency group homes and residential treatment centres.

2 Includes Seven Oaks Centre, St. Amant, Manitoba Youth Centre, hospitals and other facilities.

Children in care: 5,358

Resource Material

Legislative Material

The Child and Family Services Act, R.S.M. 1987, c. 80, as amended.

The Adoption Act S.M. 1997, c. 47.

Reports

Manitoba Children and Youth – Status Report (1999), Manitoba Children and Youth Secretariat.

Other

Manitoba Community Services, *Child and Family Services Program Standards Manual.*

Manitoba Community Services, *Foster Family Manual.*

Province of Manitoba Web site: **http://www.gov.mb.ca/**

8 SASKATCHEWAN

Administration and Service Delivery

Administration

The Department of Social Services in Saskatchewan is responsible for the development and delivery of child and family services. The Minister of Social Services administers *The Adoption Act* and *The Child and Family Services Act (CFSA)*, delegating responsibilities to the Executive Director of the Family and Youth Services Division and to social workers across the province.

The Family and Youth Services Division has the authority to protect abused and neglected children and responsibility to provide services to children in the care of the Department. The Division is also responsible for the implementation of family violence programs, adoption services, and services to young offenders.

As co-chair of the Interdepartmental Child Abuse Committee, the Department is involved in the development and implementation of various initiatives aimed at prevention, treatment and public education with respect to all forms of child abuse and neglect. The Committee comprises representatives from the departments of Social Services, Health, Justice, Municipal Government, and Education, Training and Employment.

Service Delivery Network

The central office of the Family and Youth Services Division, located in Regina, is responsible for program and policy development. The services and programs are delivered through six regional management centres and 22 district offices. Eighteen First Nations Child and Family Services (FNCFS) agencies provide mandated child protection services on reserves.

Family-Centred Services

The Family and Youth Services Division of Saskatchewan Social Services has adopted a "Family-Centred Approach" as the preferred methodology for providing services. The Family-Centred Services approach is founded on the principle that the first and greatest investment of time and resources should be made in the care and treatment of children in their own homes, reflecting the purpose and intent of *The CFSA*. This means that resources are invested in treating and strengthening the entire family. This approach also recognizes that to ensure the safety of children, not all families can be kept together. When a child must be removed from parental care for safety reasons, extended families are the preferred placement option.

Family-Centred Services underscores the importance of conceptualizing the family as a system that is constantly interacting with other systems in its environment. Family-centred intervention is characterized by these principles:

- Family-Centred Services are as complete and intensive as is necessary to maintain and strengthen families and bring about needed change to reduce risks and ensure the safety of the child;

- caseworkers establish and maintain nurturing, supportive relationships with families; and
- all persons involved with a family work as a team.

Social workers from the regional offices provide child welfare services to children and families, often in cooperation with various individuals, non-governmental organizations and agencies associated with other provincial departments or ministries (e.g., Saskatchewan Justice, medical professionals).

The majority of services are provided in the family's home or within other systems in the family's environment. Resources within the family, the extended family, First Nations communities and organizations, and the local community are used to the fullest extent.

After Hours

Non-governmental mobile crisis units in Regina, Saskatoon and Prince Albert provide after-hours emergency child protection services. In other regions, departmental child protection workers and the RCMP deal with after-hours emergencies.

Human Resources

Child welfare staff are required to have a Bachelor of Social Work or Bachelor of Indian Social Work degree from a recognized university as the minimum qualification for employment. The Department has implemented an extensive in-service training plan to address training needs in a standardized, pre-planned and sequential manner. The plan sets out a regular schedule for training so that new employees can be trained in a timely manner. Staff receive training that pertains to the three legislative mandates for Family and Youth Services – *The CFSA, The Adoption Act,* and the *Young Offenders Act* (Canada). There are three primary components to the training: Child Welfare Orientation, Preparation for Practice, and Training for Supervisors.

Additional training is provided to staff in specific practice areas: Legal/Court, Specialized Practice (program-specific areas such as Therapeutic Foster Care), and related practice (medical issues, Police Child Abuse Investigators course, Fetal Alcohol Syndrome/Effect, etc.).

Child Welfare Orientation

Supervisors typically provide all new employees with training and an orientation to the Department within their first eight to 12 weeks of employment. Support to deliver this training is provided by a team of provincial trainers.

Preparation for Practice

Preparation for Practice is a skills-based curriculum founded on the family-centred approach and is targeted to recently-hired or reassigned child welfare staff. It is also available for staff and supervisors of First Nations Child and Family Services Agencies. Training consists of four three-day classroom modules followed by on-the-job "transfer of learning" sessions where the trainers work with trainees to teach and model skills, allowing trainees to apply skills under close supervision. This training has broad applications for staff working within any one of the three provincial acts pertaining to children. The training curriculum content is derived from a course developed in consultation with the National Resource Centre for Family-Based Practice in Iowa.

Training for Supervisors

In addition to Preparation for Practice, supervisors receive training on their role and the skills required to supervise. The majority of supervisors attend a two and one-half day training session. To fulfill their supporting role, regional managers develop training plans to assist and support supervisors.

Children's Advocate

The powers and responsibilities of the Children's Advocate are defined in *The Ombudsman and Children's Advocate Act*. The Children's Advocate is appointed for a term of five years by the Lieutenant Governor in Council and is responsible for addressing any matter relating to children who receive services from any department or agency of the Saskatchewan government. The Advocate receives, reviews and may investigate any relevant matter received from any source, including a child. The Office of the Children's Advocate operates as an independent, child-focused entity providing individual and group advocacy, systemic advocacy, public education and research. The Advocate conducts independent investigations and reports directly to the Legislative Assembly and may, in appropriate circumstances, report the results of an investigation to a child or the child's guardian. An annual report is published by the Children's Advocate, summarizing children's issues and recommending changes to government services where systemic problems exist.

First Nations

Legislation

Section 61(1) of *The CFSA* is the legislative provision associated with First Nations Child Welfare agreements. It states that the Minister may enter into agreements with a Band or other legal entity to provide child welfare services to First Nations people living on reserves. In 1993, the Department signed the first bilateral agreements that enabled FNCFS agencies to provide services to children and families living on reserves. As of September 2000, there were 17 agencies in operation.

Section 37(10) of *The CFSA* requires that applications to court for child protection hearings involving a child with First Nations status must have 60 days notice provided to the child's Band or FNCFS agency when a permanent or long-term order is being sought. Section 23(1)(b) of the Act allows the FNFCS agency, Band Chief or his/her delegate to appear in court as a party to the proceedings. Section 37(11) allows the court to designate an individual as a "person of sufficient interest" and thus become a placement option for a child. Additionally, Bands or agencies are contacted by case workers at the point of apprehension of a First Nations child for consultation or for locating resources on reserves for First Nations children in the care of the Department.

Saskatchewan, the Federation of Saskatchewan Indian Nations (FSIN) and Canada have established a common table process to discuss self-government options for First Nations. Child and family services and education are the first program areas to be considered in the process.

Agencies

The *Indian Child Welfare and Family Support Act*, established by the FSIN, provides the First Nation framework for Bands to develop and deliver child welfare services. Using this framework and *The CFSA*, First Nations Child and Family Services agencies have developed culturally relevant standards of practice and service that are recognized as equivalent to service delivery standards of Saskatchewan Social Services. The agencies provide a full range of services, including child protection, to children and families on reserve and are involved in consultation and planning for First Nations families residing off-reserve. The federal Department of Indian Affairs and Northern Development funds the agencies.

The Department established the Family Connections Program in 1993 to provide liaison with FNCFS agencies with respect to First Nations children in the permanent care of the Department. The Family Connections Program was created to establish or maintain a child's connection to their immediate or extended family, culture and community. The program is intended to ensure a secure and lasting family placement. Family Connections has evolved to provide consultation to caseworkers seeking alternatives for children coming into care, including placing the First Nations child with extended family. The Family Connections Program is staffed primarily by First Nations people. The Department actively seeks to hire First Nations and Métis people for child welfare positions throughout the Family and Youth Services Division.

Métis Nations

The Department and Métis Nations Saskatchewan have signed a Memorandum of Understanding to undertake joint consultation and planning in the development of services for children, youth and families.

Definitions

Child

Paragraph 2(1)(d) of *The Child and Family Services Act* defines a **child** as an unmarried person under 16 years of age. Under exceptional circumstances, Section 18 provides for the apprehension of a 16 or 17-year-old who is in need of protection and is unable to protect himself/herself from a dangerous situation or is likely to be encouraged to engage in prostitution. For the purposes of adoption, *The Adoption Act*, (Section 2(g)) states that a child is a person who is under 18 years of age and has never been married.

Section 51 of *The CFSA* expands the definition of a child to include 16 and 17-year-old youths who are permanent or long-term wards in the care of the Minister.

Child in Need of Protection

Under Section 11 of *The CFSA*, **a child is in need of protection** where:

"(a) as a result of action or omission by the child's parent:

  i) the child has suffered or is likely to suffer physical harm;

  ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;

  iii) the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including involvement in prostitution and conduct that may amount to an offence within the meaning of the *Criminal Code;*

  iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;

  v) the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or

  vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;

(b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or

(c) the child is less than 12 years of age and:

i) there are reasonable and probable grounds to believe that:

   A) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under the *Criminal Code*, the *Narcotic Control Act* (Canada) or Part III or Part IV of the *Food and Drug Act* (Canada); and

   B) family services are necessary to prevent a recurrence; and

ii) the child's parent is unable or unwilling to provide for the child's needs."

Child Abuse and Neglect

Section 81 of *The CFSA* defines the offence of **abuse** as:

"(a) to act or to omit to act so as to result in physical injury to the child;

(b) to act or to omit to act so as to result in substantial impairment of a child's mental or emotional functioning as evidenced by a mental or behavioural disorder;

(c) to exploit a child or to treat a child cruelly;

(d) to contact a child for a sexual purpose, or;

(e) to allow or encourage a child to engage in prostitution."

The Saskatchewan Family-Centred Services Manual provides a working definition for neglect, which states: "Neglect occurs when a parent fails to provide supervision, guidance, medical care, food, clothing or shelter that might reasonably be expected of any parent, and that inadequate provision is associated with:

- unreasonable and unnecessary danger to the child's safety;
- severe or chronic health problems;
- childhood behaviours that pose a threat to either the safety of the child, or to other persons and;
- social ostracism of the child which is significant because of its severity and duration."

Legislated Rights of Children

A child who is the subject of a protection hearing may, at the discretion of the court, be present at the hearing or any part thereof, if it is in the child's best interest. Section 29 of *The CSFA* also specifies that the court may interview the child during a proceeding.

Child Abuse/Neglect Protocols

The Interdepartmental Child Abuse Committee has been involved in the development and implementation of the "Provincial Child Abuse Protocol". The protocol describes principles that guide the response to allegations of child abuse and sets out the roles and responsibilities of communities, professionals, individuals and organizations involved with children who have been abused.

The Provincial Child Abuse Protocol requires Local Child Abuse Protocol Committees in each region of Saskatchewan to establish local protocols, review their implementation and ensure that all staff involved in child protection matters are fully informed of all protocols. FNCFS agencies, local Tribal Councils and Bands are encouraged to participate as Committee members. The committees develop specific procedures for the investigation, treatment and follow-up of child abuse that are articulated in a Local Function Statement. The Local Function Statement also sets guidelines for other procedures and situations related to child protection based on the needs and resources unique to each region.

FNCFS agencies have signed an Investigation Protocol with the RCMP for conducting joint investigations of abuse. The Department of Social Services investigates cases of child abuse or neglect on behalf of Bands that are not part of an agency. The Department and FNCFS agencies are developing protocols to outline their respective roles and responsibilities in joint investigations but in the meantime, agencies follow the provincial child abuse investigation protocol. A protocol for managing case transfers between the Department and FNCFS agencies was signed in December 1998.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Every individual who has reasonable grounds to believe that a child is in need of protection is obligated to report this information to the Department of Social Services or a police officer in accordance with Section 12(1) of *The CFSA*. In so doing, the individual is protected from civil action, provided the report was not made maliciously and without reasonable cause. Exceptions from the requirement to report are made only for situations involving lawyer/client privilege or Crown privilege.

The Provincial Child Abuse Protocol directs teachers who suspect abuse or neglect of a child to inform the principal of the school who will then inform a child protection worker or a police officer. School personnel are encouraged to have informal consultations with child protection workers or police officers when unsure of any particular case; these consultations can occur without making a formal report.

Penalties For Not Reporting

Failure to report a child in need of protection is an offence under Section 81(2) of the Act, punishable by a prison term of not more than 24 months, a maximum fine of $25,000, or both.

Investigation of Allegation of Abuse or Neglect

Who Investigates

Child protection caseworkers receive reports of suspected child abuse through phone calls, letters and personal interviews. Caseworkers collect as much information about the case as possible to determine if the allegations can be considered to be abuse or neglect as defined by *The CFSA*. If the caseworker determines that there are reasonable and probable grounds to believe that a child is in need of protection, an investigation must take place. The time frame of the investigation response ranges from within one hour, based on an immediate concern for the safety and well-being of the child, to fourteen days, depending on the urgency of the situation.

Investigation Teams

Saskatchewan currently operates two centres for conducting joint investigations of allegations of child abuse. Regina's Children's Justice Centre opened in November 1997 and the Saskatoon Child Centre opened in November 1999, serving the respective urban and outlying rural areas. Both centres are designed to provide a non-threatening, supportive environment where a child can interact with Justice and Social Service professionals involved in responding to abuse allegations. The centres employ a joint investigation approach that is designed to gather information in a timely manner through as few interviews as possible to determine if child protection concerns exist and if there were *Criminal Code* violations. The centres are unique in that police and Social Services workers are co-located at a site where "soft" interview rooms with videotaping capability are available for investigative interviews.

New referrals to the Children's Justice Centres are received from child protection intake, the Mobile Crisis Service and Police Services. The centres are also consulted by caseworkers and may assist them in interviews where new allegations of abuse arise in an active child protection case. If an investigation reveals evidence of a criminal offence, the case is referred to the Crown Prosecutor's office for consultation regarding court proceedings under the *Criminal Code*. If protection concerns are substantiated, the centres forward the file to an ongoing child protection worker.

Warrants

Section 13 of *The CFSA* outlines the duty to investigate where there are reasonable and probable grounds to believe that a child may be in need of protection. In keeping with the intent of the legislation, caseworkers attempt to gain the cooperation of the family in the provision of child protection services. When police or caseworkers cannot secure cooperation, a warrant may be obtained in person or by electronic communication from a judge or justice of the peace. Section 13.1 of the Act provides for the ability to obtain a warrant to enter a specified premises, require a person to disclose the location of a child, interview or examine a child, or remove the child and authorize a medical examination. The use of a warrant is usually considered as a last resort.

Section 17 of *The CFSA* permits the return of an apprehended child to their custodial parent within 48 hours of an apprehension. When the child is returned within this time frame and the child continues to be in need of protection, the family is offered family support services. If the family is uncooperative in addressing the safety issues that led to the removal of the child, ongoing services would be provided.

Medical Examinations

In both physical and sexual abuse investigations, a medical examination by a pediatrician takes place immediately. If it is known that the parent is not the offender, he/she is asked to consent to the examination and accompany the child. If a parent refuses or is unavailable to consent to a medical examination, the child would then be apprehended by the caseworker and brought to a qualified medical practitioner or other health care provider.

Assessment and Case Planning

After receiving a report of child abuse or neglect, the priority for child protection services is to assure the immediate safety of the child. Protection workers use a safety assessment tool that defines 11 risk factors that indicate the possibility of serious harm to the child. The decision to intervene is based on the immediacy and seriousness of risk factors present, and the likelihood of harm occurring without a safety intervention. If a child is considered to be unsafe, workers construct an immediate safety plan for the child based on the offer to the guardians of the child to enter a Parental Services Agreement, or apprehension of the child (see court-ordered protection section).

Family assessment is the initial step in a time-limited process of intervention that seeks to empower families and minimize dependence upon the social system. The process of assessment includes an assessment of risk and the protective factors that mitigate risk. This process leads case workers to identify areas for change and develop a treatment plan with the family that involves community supports and extended family.

The Parental Services Agreement is the framework for all services designed to reduce risk and strengthen the family, including direct services from the caseworker. However, if a parent refuses to enter into an agreement or breaches an agreement, an application for court-ordered protection is made.

Caseworkers use a variety of tools to assist in formulating family-centred assessments and treatment plans. A *Genogram* is a family map that graphically represents the identities and relationships of the extended family. An *Ecomap* represents systems outside of the family that influence its functioning. Workers employ these and other tools to enhance their understanding of families and their strengths and needs.

Departmental Role in Investigation of Third Party Abuse

The policy defined by the Provincial Child Abuse Protocol states that all allegations of abuse are investigated thoroughly, including third party abuse (person other than a family member). In cases where the alleged abuser is not a family member, the capacity of the parents to protect the child is assessed and referrals to family treatment and support are made when appropriate. The alleged offender's access to other children is investigated and protective action is taken to eliminate the risk of abuse to other children.

Investigation of Child Deaths

The Department's child death review policy ensures that all deaths of children and youth up to age 21 who have received services from the Department under *The CFSA*, the *Young Offenders Act*, or *The Child Care Act*, at any time during the year preceding death undergo a departmental review. The review examines factors such as the nature and frequency of contact with the Department, the level of services provided, and any systemic issues that arise from the review that require attention. A copy of the Department's review is sent to the Children's Advocate and the Chief Coroner.

The Children's Advocate has the authority to initiate an independent review of any suspicious child death reported by the Chief Coroner. The Children's Advocate also co-chairs the Child Death Advisory Committee, which is mandated to make recommendations on systemic and policy issues related to the deaths of any children in Saskatchewan. The committee comprises representatives of member organizations that are concerned with the well-being, interests and protection of children in Saskatchewan. Recommendations from the Committee are directed to the Children's Advocate and/or the Chief Coroner, who then present them to various government agencies or others in accordance with their respective reporting statutes.

Child Abuse Register

Saskatchewan does not operate a child abuse register.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases) or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

The purpose of *The CFSA* is to promote the well-being of children in need of protection by offering, wherever appropriate, services that are designed to maintain, support and preserve the family in the least disruptive manner. The intention of the Act and the family-centred philosophy is for the Department to work with families on a voluntary basis whenever it is practical.

A **Parental Services Agreement** creates the link between the assessment of risk and the provision of services on a voluntary basis. The agreement defines the reasons for intervention, the tasks assigned to all participants in the agreement and specific, measurable outcomes. A standard time frame of 45 days (starting from the time of initial contact) is set for caseworkers to negotiate and complete the initial Parental Services Agreement.

Under Section 9 of *The CFSA*, parents may enter into a **Residential Care Agreement** with the Minister when they cannot meet the basic or special needs of a child. The Minister assumes care of the child for a period of up to one year, (renewable, but not to exceed 24 months) while the parents retain guardianship. Residential Care Agreements require the active involvement of parents who intend to resume parenting of the child after resolving the problems that initially put the child at risk.

Court Orders

If an agreement for services cannot be reached and the worker has concluded that a child cannot safely live at home and is therefore apprehended, an application for a hearing must be made to the Provincial Court of Saskatchewan or the Family Law Division of the Court of Queen's Bench (in Saskatoon, Regina and Prince Albert) for a protection hearing. There may also be instances where the child continues to reside with his or her family while an application is made for a protection hearing.

Upon determination that a child is in need of protection, the judge may make one of several orders. An **Order to Return the Child to the Parent** ensures the child remains with, or is returned to, the parent with the possible implementation of any terms or conditions deemed appropriate, including an order that the Department supervise the child for a period of up to one year.

An **Order to Place the Child in the Care of a Person Having a Sufficient Interest** requires that the court designate someone, usually a long-time friend, a Band member or an extended family member, to care for the child for a time-limited, or indefinite period. The judge may grant the parent(s) access to the child while this order is in effect.

Under the terms of a **Temporary Committal Order**, the Minister of Social Services assumes custody of the child for a term of up to six months. Renewal of the term cannot exceed twenty-four months in total, unless it is in the best interests of the child to grant a further extension. A **Permanent Committal Order** requires that custody and guardianship of the child, with all associated parental rights and responsibilities, including the right to place the child for adoption, be transferred to the Minister. There are two avenues for obtaining a Permanent Committal Order: one is through a protection hearing (Section 37(2)), and the other is through a voluntary committal (Section 46).

Where it is unlikely that a child would be adopted if made a permanent ward under a Permanent Committal Order due to the age of the child or other circumstances, a **Long-Term Order to Age 18** may be recommended, placing the child in the Minister's custody until the child reaches 18 years of age. Under this order, the parents do not retain guardianship but may have access to the child or youth. The primary difference between a Long-Term Order and a Permanent Committal Order is that the Minister can not make a unilateral decision to place a child for adoption under a Long-Term Order.

If contact between a child and another individual would likely cause the child to be in need of protection, a **Protective Intervention Order** may be made under Section 16 of the Act. This court order prohibits a specific person from contacting or associating with a specified child for a term of up to six months and is renewable up to a maximum of 24 months. If contact or association continues to threaten the child's safety after 24 months, the order may be renewed indefinitely.

When a court adjourns a protection hearing, it may make an **Interim Order** of any of the above orders, including a Temporary Committal Order, for the duration of the adjournment.

Section 39 provides for any party to the original protection hearing to make an application to vary an existing order. Such an application can be considered when there has been a change in circumstances or it is considered in the best interests of the child to vary or terminate an existing order. This provision does not apply where a child has been permanently committed to the Minister and is adopted or has been placed in a home for the purpose of adoption.

Appeals

Part VIII of *The CFSA* concerns appeals of orders made under the Act. Any party to a hearing where an order was made may appeal that order within 30 days. The appeal can be made to the Court of Queen's Bench or, where the originating court was the Court of Queen's Bench or the Unified Family Court, to the Saskatchewan Court of Appeal.

Extended Care

A person who is 16 or 17 years of age and is in need of care and supervision may enter into an Agreement for Services with the Director under Section 10 of the Act to receive residential services and financial assistance. Section 10 applies to youth who have turned 16 years of age while in care under a Temporary Committal Order and cannot be re-established with their families, or whose parents refuse to renew a Residential Care Agreement when further services are required. An agreement under Section 10 may be renewed to age 18. If parents are willing and able to care for a youth and there are no protection concerns, a Section 10 agreement cannot be made. Services provided to 16 and 17-year-olds are distinct from other departmental child welfare services in that they are combined with income support (social assistance) to provide a single entry point for multiple services designated for this age group.

Under Section 56 of the Act, a youth who has been in care under a permanent or long-term order and is pursuing his or her education may enter an agreement to receive continued support, shelter, care, counselling and/or family services to age 21, or until completion of the youth's education, whichever comes first.

Support Services to Families

A major part of child protection casework involves identifying resources that will help a family make the changes necessary to reduce the risk of child abuse/neglect by strengthening family functioning. Supports to families of children who are in need of protection are established through a Parental Services Agreement with the Department. Services are usually a combination of those provided by the caseworker, other departmental programs, contracted services, or services from another agency or department.

In developing a Parental Services Agreement, caseworkers develop a treatment plan with the family that is oriented toward building family strengths, reducing risk and resolving identified problems that create risk. Caseworkers work with families to develop or enhance support networks that typically combine formal services (daycare, counselling, mental health counselling, etc.) and informal supports and services (extended family, friends, community organizations, etc.). These services are targeted to meet the specific needs of the family and support progress toward the outcomes identified in the planning process.

When existing community resources are not available for families, or when services needed to reduce risk and improve family functioning are available only through a private service provider, Family Support Contracts can be used to purchase these services. Contracts for periods of up to three months are agreed to by the caseworker and the parent or guardian to access a variety of services listed by the Department. Contracts may be renewed following a review of the family's progress and a determination that further services are required.

Parent Aide Services are contracted by the Department through community-based organizations and are used to assist parents to change behaviour that puts children in need of protection. Parent aides work with caregivers to develop parenting and homemaking skills through teaching and modelling specific behaviours and attitudes that are consistent with the overall treatment plan. Parent Aide Services can be implemented proactively to prevent apprehension, or implemented after an apprehension to assist in and follow up a child's return to home. Under DIAND funding arrangements, Parent Aide Services delivery on reserve is limited to situations where children have been apprehended and then returned home.

Other Services

The Teen and Young Parent Program provides services to teen-aged and young parents on a voluntary basis through government programs and community-based organizations throughout the province. The program has four cornerstones:

- pregnancy counselling;
- parenting support;
- education and vocational counselling; and
- life skills and development of self-esteem and confidence.

The Saskatoon Family Support Centre is a departmental service that provides educational programs on effective parenting skills and outreach services for victims of family violence. The Saskatoon Tribal Council provides a similar service for First Nations children, youth and families in Saskatoon.

Other programs undertaken by the Department include the Family Builders Project (Regina), which provides intensive in-home support to families with children at immediate risk of apprehension. Regina has a Family Sexual Abuse Treatment Program which works exclusively with families who have experienced intra-familial sexual abuse and provides treatment to all members of the family to improve functioning, prevent future abuse situations and provide emotional stability for the child.

The Victims Services Program (Saskatchewan Justice) helps children and families deal with the trauma of victimization, especially physical and sexual abuse. Initiatives under the Victims Services Program include expanded victim-witness rooms in Regina, Prince Albert and Saskatoon. The rooms are safe and secure areas where children wait before they testify in court, ensuring that they do not come into contact with the accused. These three courthouses also have child victim/witness co-ordinators who provide information and support for child victims and witnesses during a trial.

The government of Saskatchewan has asserted that children who are exploited by prostitution are victims of abuse. The departments of Social Services and Justice have partnered to create initiatives under a five-part strategy to address child prostitution in Saskatchewan. The strategy includes:

- developing strict law enforcement policies to target pimps and anyone who sexually exploits children;
- working with other jurisdictions to create a tracking and monitoring system that will assist in detecting and prosecuting those who sexually exploit children, ensuring that their prosecution is not hindered in any way by federal and provincial laws;
- ensuring that services are available to victims;
- working with the community to develop and implement a public education campaign that identifies the act of procuring a child for the purpose of prostitution as child abuse; and
- creating an information resource base for urban centres, establishing a central youth council and deploying outreach workers.

Placement Resources

Foster Care

The Department of Social Services has a formal mandatory foster care training program developed by the Department and the Saskatchewan Foster Parent Association. Persons interested in fostering participate in a three-hour orientation session before deciding to complete an application and proceed with a six module (24 hour) pre-service training process. A home study is done while the applicants complete pre-service training. The home study generally takes from three to four months and includes a self-assessment, several interviews, reference checks, and completion of a medical report. A criminal record investigation is also required. Upon successfully completing the pre-service training and home study, the approved foster family becomes an intern family and is able to accept its first foster child. Intern caregivers are then required to complete the ten module (40 hour) practitioner level of training within two years. First Nations agencies also recruit and train foster families for children who come into the care of their agency.

Foster families are divided into categories according to the duration of the placement and the types of children for whom they are approved to care. Emergency homes accept children on short notice at any time of day for periods of up to two weeks. These placements involve children who are distressed and sometimes in poor health or physical condition. Foster parents assist the social workers in assessing the needs of the children before a referral is made for a longer-term placement. Short-term foster homes prepare children to return to their family, or their extended family or to move to permanent foster care or adoption. Long-term homes care for children until they are ready for independent living.

Therapeutic Foster Care

Children in care who present behavioural, developmental, social or emotional problems that are beyond the capacity of a regular foster home to address have an alternative to institutional care in the Saskatchewan Therapeutic Foster Care Program. Only one or two children are placed in this type of home and departmental social workers support a maximum of eight homes per caseload. Parents who operate therapeutic foster homes must successfully complete the 150–200 hour Therapeutic Foster Care Curriculum within two years of opening a therapeutic home. Therapeutic foster parents work closely with the social worker and are involved with case planning, assessment, interventions, and liaison with other agencies. Therapeutic foster parents also provide intensive support to the child and his or her birth or source family.

The Department is considering development of a "kinship care" program to assist and support placements of children with extended family members. Foster parents who care for physically or mentally disabled children can access 21 days of respite per year, allowing for substitute care to be provided either in the foster home or at a temporary placement.

Saskatchewan Foster Family Association

The Saskatchewan Foster Family Association is an umbrella organization that supports all foster families and collaborates with the Department on recruitment, training and program development. There are also local associations that work with their local regional office.

Investigation of Allegations Against Foster Homes

All allegations of abuse or neglect occurring in a foster home are fully investigated with consideration to the unique relationship between foster caregivers and the Department. As with all allegations, the safety of the child and risk factors are assessed immediately. Where it is assessed that a child may have been abused or neglected, the Regional Director or designate immediately assigns a child protection caseworker (possibly from another office or region) to conduct the investigation. No new foster placements take place during an investigation, which must be completed within thirty days. A detailed report and a foster home review/reassessment are provided to the Senior Program Consultant – Children's Services following all investigations. Foster families are kept informed at all stages of an investigation process and are provided peer support by the Saskatchewan Foster Family Association. The Department notifies the Association of any investigations and review outcomes.

Allegations of abuse or neglect occurring in placement resources are investigated as per departmental standards and are reported to the Regional Director within 30 days. A final report is filed with the Senior Program Consultant, Children's Services, Family and Youth Services Division. After the investigation process is complete, the caseworker responsible for the resource conducts a reassessment of its suitability to provide care.

Complaints of abuse or neglect occurring within a child care resource (day care centres or family day care homes) are investigated jointly by child protection services staff and the Department's child care consultant. The child protection worker assesses the safety and protection aspects of the case, involves police if an offence under the *Criminal Code* is suspected and notifies the parents of the children in the centre/home of the investigation. The child protection worker provides a report to the Department with input from the child care consultant. The child care consultant files a separate report to the Executive Director of the Child Care Branch regarding quality of care issues in the child care resource and any recommendations for action.

Group Care

Twelve group home facilities are grant-funded on an annual contractual basis by the Department to provide residential services for youths who are 12-16 years of age. Services provided in the group homes are directed toward youth who are returning home or establishing an independent living arrangement. In addition, there are four treatment group homes for youth operated directly by the Department. Two provincial youth facilities provide services for children who need 24 hour structured care for emergency placements, transitional placements or management of difficult behaviour. Ranch Erhlo is a private residential treatment facility contracted by the Department to provide specialized treatment and on-site school programs for high-needs children. First Nations agencies have developed group home and treatment group care programs delivered on reserve that currently comprise 117 beds.

Adoptions

Adoptions in Saskatchewan are governed by *The Adoption Act*. The Provincial Court of Saskatchewan or the Court of Queen's Bench must make an **Adoption Order** based on the best interests of the child for all adoptions, whether secured independently or through a public or private agency.

Saskatchewan Social Services delivers services for domestic adoption, assisted adoption, intercountry adoption and post-adoption. Since 1989, Saskatchewan Social Services has offered "open" adoptions, allowing for varying degrees of contact and information sharing between the birth parent and adoptive parents.

Independent Adoption

In Saskatchewan, birth parents may make arrangements with someone whom they know to adopt their child. A Teen and Young Parent Worker must provide counselling to the birth parents when this kind of arrangement is made in order to assure they are aware of all their options and are making a well-informed decision. An independent practitioner approved by Social Services completes a homestudy report on the prospective adoptive parents. This independent adoption arrangement is usually processed through the Court with the help of lawyers. Persons other than the birth parent or Social Services workers who seek to arrange an adoption placement must obtain permission from the Minister of Social Services pursuant to Section 34 of *The Adoption Act*. In cases where the adoptive parents have significant financial need, the Department may subsidize one-time costs for independent adoptions.

Christian Counselling Services of Saskatoon is the only licensed agency that provides domestic adoption services to Saskatchewan applicants. Costs for services vary depending on the circumstances of the applicant and fees can range up to $6,000.

Departmental Adoptions

An assisted adoption program makes ongoing financial assistance available to adoptive parents in circumstances where a child who has been permanently committed to the Minister has special needs or chronic medical treatment requirements, or for whom all reasonable efforts to place him or her have been exhausted.

Where a birth parent plans to sign a voluntary committal and make an adoption plan for an infant who is eligible for First Nations status, every possible effort is made to ensure that the birth parent(s) consult with the Band, the First Nations Child and Family Services agency or an Elder. The Department will not place children who are permanent wards for adoption if they are eligible for First Nations status, without specific written approval/support from the child's Band regarding permanent planning for the child.

International Adoption

Saskatchewan is a signatory to the Hague Convention for international adoptions and has identified the Minister of Social Services as Saskatchewan's central authority.

Post Adoption Program

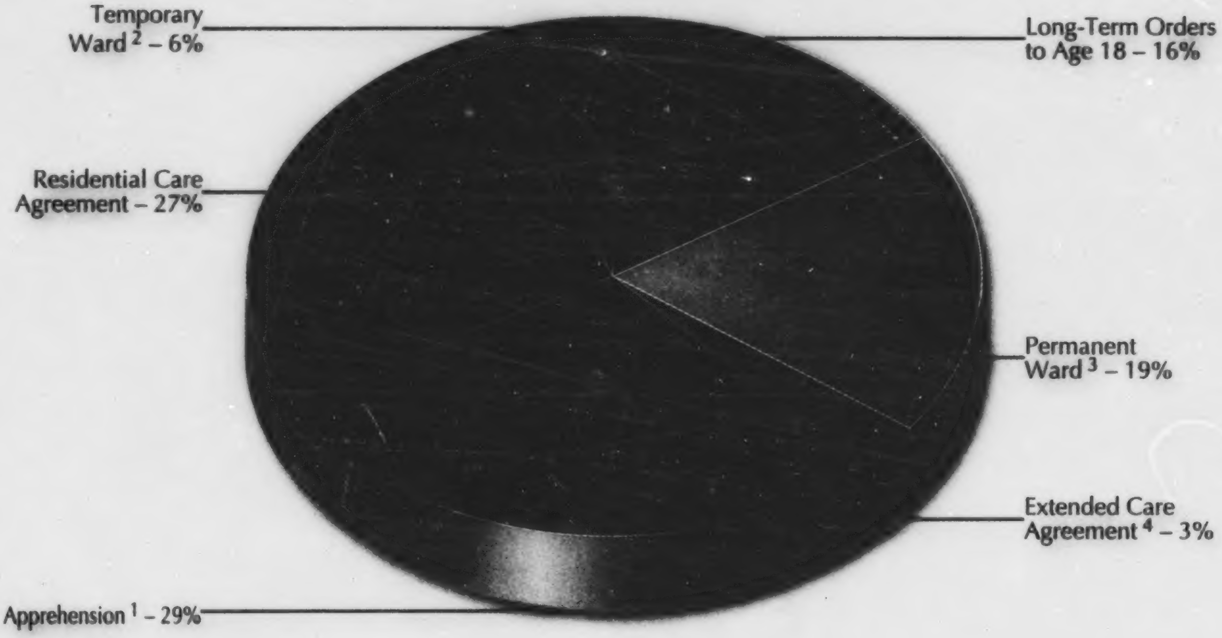
Post adoption services in Saskatchewan manage the disclosure of information following a legal adoption. The Post Adoption Program provides information and search services upon request for adult adoptees, adoptive parents, birth parents and their family members. Identifying information is released only upon the consent of both parties. For adoptions occurring after 1997, birth registrations containing identifying information are accessible to either party unless the birth parent or the adopted child (after turning 18 years of age) has registered a contact veto with the Department. Adoptions prior to 1997 require the mutual consent of both adoptees and biological parents in order to access birth registrations.

Statistics

Due to the limitations noted in the Introduction, Saskatchewan data should not be compared with data for other jurisdictions.

Figure 8.1

Children in Care by Legal Status as at March 31, 1999

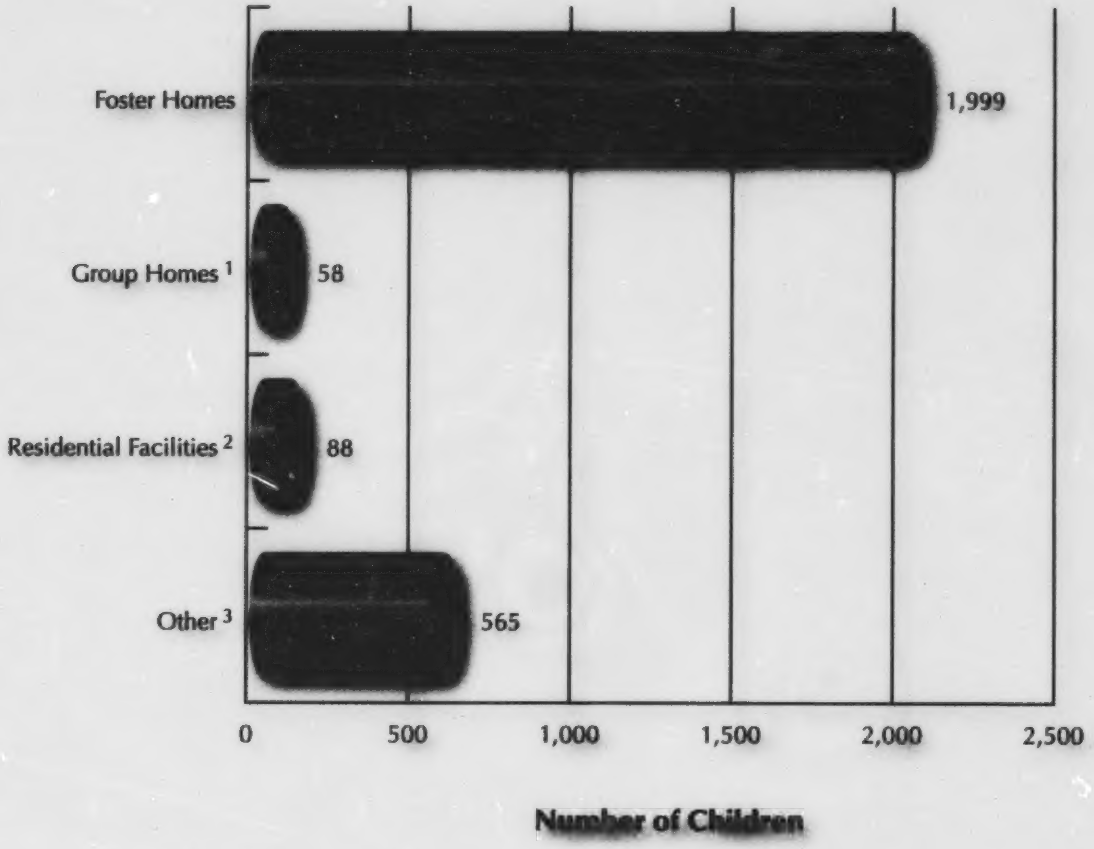


1 Matter before the court.
2 Temporary Committal Order.
3 Includes Permanent Committal Order and Voluntary Committal Order (relinquishment of a child for adoption).
4 Extension of services to 21 years of age.

Children in care: 2,710

Figure 8.2

Children in Care by Placement Type as at March 31, 1999



1 Non-governmental homes.
2 Government-run and non-governmental facilities (Dales House, Cottage 22, Kilburn Hall, Ranch Erhlo).
3 Northern child care centres (receiving function), extended family placements, children in care placed in young offenders open and closed facilities, children in care who have been returned home but whose guardianship has not been terminated and older children in care who have left provincial resources.
4 This chart does not include placements for 16 and 17-year-olds under Agreement for Services.

Children in care: 2,710

Resource Material

Legislative Material

The Child and Family Services Act. S.S. 1989-90, c. C-7.2.

The Adoption Act, 1998. S.S. 1998, c. A-52.

The Adoption Regulations, 1996.

The Inter Country Adoption (Hague Convention) Implementation Act, 1995. S.S. 1995, c. I-10.01.

Reports

Saskatchewan Social Services. *Annual Report 1997-98.*

Other

Saskatchewan Social Services. *Family-Centered Services Manual 1997.*

Saskatchewan Social Services. *Children's Social Services Manual.*

Saskatchewan Social Services. *Adoption Manual.*

Saskatchewan Social Services Web site: **http://www.gov.sk.ca/socserv/**

Pamphlets

Saskatchewan Social Services. *"About series"*, educational handouts 1997.

9

ALBERTA

Administration and Service Delivery

Administration

The Ministry of Children's Services was formed in 1999 as part of a major government reorganization. The Ministry of Children's Services offers a number of services and programs for children and families in the province, including Child Protection, Adoption Services, Child Care Programs, Child Financial Benefits, Family Violence Prevention, Handicapped Children's Services, and Early Intervention Programs. Child protective services are provided under the authority of the *Child Welfare Act (CWA)* and the *Protection of Children Involved in Prostitution Act (PChIP).*

There are 18 Child and Family Services Authorities (CFSAs) within Alberta that deliver a range of children's services, including child protective services. The Minister has delegated the power to designate a Director to each CFSA board and each First Nations Child Welfare Agency (FNCWA) board to administer the *CWA* and *Protection of Children Involved in Prostitution Act*. Each designated Director further delegates specific duties and powers to child welfare workers.

The provincial government maintains responsibility for province-wide standards in child and family services through the Provincial Standards for Services for Children and Families. The provincial standards are a set of expectations that apply to the planning, delivery, monitoring, and evaluation of services for children and families for all Child and Family Services Authorities. Each authority is expected to meet the standards and demonstrate that contracted service providers also meet standards. The standards also address four pillars of community-based service delivery: early intervention, community-based supports, service integration, and improved services for Aboriginal children and families.

Service Delivery Network

The 18 CFSAs deliver services to geographical regions of Alberta with the exception of one authority that is comprised of eight Métis settlements located across the province. Each of these authorities has a board of directors whose members are appointed by government to represent the communities in their region. Thirteen First Nations Child Welfare Agencies provide delegated services on reserves. The 18 authorities design the delivery of services according to specific operational standards in order to meet the needs of families in their region. This allows for flexibility across the province while also ensuring that province-wide standards are maintained.

The services delivered by each Child and Family Services Authority include child welfare, adoption, protection of children involved in prostitution, day care subsidy, family violence prevention, services for children with disabilities, early intervention, and facility licensing. Each authority manages the provision of child protection services in its region directly.

A variety of community agencies, organizations, and individuals provide a range of services for children and families by entering into contracts with a CFSA. Examples of contracted services include community agencies providing treatment for children in government care, family support services, and women's shelters. Other service providers include individuals such as foster parents and operators of day care centres, as well as local groups that offer early intervention or other supports designed to meet the needs of children and families in their communities.

Certification by the Child Welfare Certification and Accreditation Board is mandatory for agencies contracted to provide child welfare services. The certification procedures apply to agencies operating child welfare residential programs, supported independent living programs, foster care, family support and other community-based programs.

The Child and Family Services Authorities develop partnerships with a range of community-based organizations – including school boards, health authorities, mental health services, justice, Persons with Developmental Disabilities Boards, Family and Community Support Services (FCSS), and local governments. By working together, these organizations can identify needs and plan and act on behalf of children and families in a co-ordinated manner.

A number of First Nations and other communities have child welfare committees that support and advise child welfare workers in investigation, case planning and obtaining resources for children. Some communities also have multidisciplinary teams for investigating child welfare matters.

After Hours

After hours coverage is arranged differently by each CFSA and FNCWA. However, the Edmonton Crisis Unit offers a screening service to all parts of the province except Calgary. All after hours calls on the Child Abuse Hotline are handled by the Edmonton Crisis Unit where staff deal with the matter or contact an on-call worker in the local community.

Children's Advocate

The legislative mandate of the Children's Advocate, as set out in the *CWA*, includes both case advocacy (for individuals and groups) and systemic advocacy. The duties and functions of the Children's Advocate include:

- providing systemic advice to the Minister with respect to Alberta's child welfare services and their impact on children;
- representing the rights, interests and viewpoints of a particular child or group of children; and
- submitting an annual report to the Legislature through the Minister of Children's Services.

The Children's Advocate may respond to referrals and requests for involvement and assistance from any interested person on behalf of children receiving child welfare services. The Advocate may also initiate a review or an investigation of complaints or concerns relating to children that come to his or her attention without a request for involvement.

The *CWA* provides for the delegation of any duties and functions of the Children's Advocate to another person. This provision enables the involvement and empowerment of a child's "natural" advocates or significant others in the community on the child's behalf.

The powers of the Children's Advocate include access to children, guardians, and others who represent children as well as all information relating to children receiving child welfare services. The Advocate may speak on behalf of, and otherwise represent a child when major decisions are being made. The Children's Advocate can contribute to formal decision-making processes to ensure that the child's rights, interests and viewpoints are considered. The Advocate may also assist children by informing them of their procedural or substantive rights and by assisting them in exercising their rights.

Human Resources

To be qualified as a child welfare worker in Alberta a person must hold at least a Bachelor of Social Work degree, be registered under the *Social Work Profession Act*, be registered under the *Psychology Profession Act* or, in the opinion of the Minister, be qualified because of their academic qualifications or experience or a combination of both.

Many new child welfare workers enter the field through the Trainee Program, allowing for a structured, gradual entry into child protection work. Each trainee has their training and evaluation guided by a standard learning contract that identifies the specific knowledge, skills and personal attributes that are required for child protection practice.

All new child welfare workers, including trainees, receive Orientation and Basic Training during the first to fourth week of employment followed by Child Protection Services (CPS) training within the first four months. CPS training is a skill-based training program for child protection work and investigations. This training must be completed before the new worker receives delegated authority under the *CWA*.

Other staff development courses specifically designed for child welfare workers are:

- Alcohol Related Birth Defects
- Court In Session
- Critical Thinking
- Introduction to Mediation Skills
- Investigation of Child Sexual Abuse
- *Protection Against Family Violence Act* training.

Aboriginal Children

Legislation

The *CWA* does not include legislative provisions that pertain specifically to the creation and development of First Nations child and family services agreements or agencies. However, Section 87(1) allows the Minister to delegate duties and powers, including the power to designate a Director. The Minister has delegated this authority to 13 First Nations agencies that have agreements with the province to provide services on member reserves.

Sections 73 and 62.1 of the Act set out procedures that must be followed when providing child welfare services to a child who has, or is eligible for, registered Indian status. Section 73(2) requires that if a registered child is a member of a Band and a resident on reserve, the Band or a designate must be consulted before entering into a Permanent Guardianship Agreement, or applying for a supervision or guardianship order in respect of the child. If a registered child is a member of a Band but not a resident of the reserve, the child welfare worker must ask for the guardian's consent before consulting with the Band as per Section 73(2); if the guardian consents, consultation with the Band must occur. If a court order is granted with respect to a registered child who is a Band member, a copy of the order must be sent to the Band or its designate within 20 days.

Section 73(5) further directs individuals who adopt a registered child to:

- take reasonable measures on behalf of the child that would be necessary for the child to exercise any rights he or she may have; and
- as soon as, in the opinion of the adoptive parent, the child is capable of understanding his or her status as a First Nations person, inform the child of that status.

Section 62.1 states that both Child Welfare Services staff and licensed adoption agency staff must consult with the Bands of First Nations children who are being surrendered for adoption by a guardian who is a resident on a reserve. Guardians who are not residents on a reserve are encouraged to consent to such a consultation.

In addition to the legislation, the provincial standards include a number of requirements for services to Aboriginal children. These include matters such as consultation, special procedures and culturally relevant services for all Aboriginal children, including Métis and Inuit children.

Agencies

There are 13 delegated First Nations child welfare agencies in the province that operate under complementary bi-lateral or tri-lateral agreements. One other agency has arrangements with the province to have its staff delegated.

Non-delegated First Nations agencies provide support services in partnership with the local *CFSA*, which carries out its child protection responsibilities in consultation with the Band or agency.

Definitions

Child

Section 1(1d) of the *Child Welfare Act* states that: "**child**" means a person under the age of 18 years".

Child In Need of Protection

For the purposes of the *Child Welfare Act*, Section 1(2) states: "**a child is in need of protective services** if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:

a) the child has been abandoned or lost;

b) the guardian of the child is dead and the child has no other guardian;

c) the guardian of the child is unable or unwilling to provide the child with necessities of life, including failing to obtain for the child or to permit the child to receive essential medical, surgical or other remedial treatment that has been recommended by a physician;

d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;

e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;

f) the child has been emotionally injured by the guardian of the child;

g) the guardian of the child is unable or unwilling to protect the child from emotional injury;

h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment;

i) the condition or behaviour of the child prevents the guardian of the child from providing the child with adequate care appropriate to meet the child's needs."

Child Abuse and Neglect

In Section 1(3)(a), the *CWA* further defines the term **emotional injury** found in Sub-section 1(2)(f) as: "a child is emotionally injured:

1. if there is substantial and observable impairment of the child's mental or emotional functioning that is evidenced by a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development, and
2. if there are reasonable and probable grounds to believe that the emotional injury is the result of
   (a) rejection,
   (b) deprivation of affection or cognitive stimulation,
   (c) exposure to domestic violence or severe domestic disharmony,
   (d) inappropriate criticism, threats, humiliation, accusations or expectations of or towards the child, or
   (e) the mental or emotional condition of the guardian of the child or chronic alcohol or drug abuse by anyone living in the same residence as the child."

In Section 1(3)(b), the Act further defines the term **physically injured** found in Sub-section 1(2)(d) as: "a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of consciousness or physiological functioning or the loss of hair or teeth."

In Section 1(3)(c), the Act further defines **sexual abuse** found in Sub-section 1(2)(d) as: "a child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour including prostitution related activities."

Alberta's *Protection of Children Involved in Prostitution Act (PChIP)* came into effect in February 1999 and is the first of its kind world-wide. The intention of this Act is to recognize that children involved in prostitution are victims of sexual abuse and that their protection is the responsibility of families, communities and the Government of Alberta. Previously, children involved in prostitution could be charged with solicitation. The Act is supported by programs and services to help children end their involvement in prostitution, either voluntarily or involuntarily.

A child who wants to end his or her involvement in prostitution may access community support programs. The *PChIP Act* enables a police officer or a child welfare worker to apprehend a child who is involved or attempting to be involved in prostitution and take the child to a protective safe house, where the Director can confine the child for up to 72 hours for emergency care, treatment, and assessment. If the Director confines a child without an apprehension order, the Director must appear before the court within three days to show cause why the confinement was necessary.

The *PChIP Act* also introduced legal penalties for johns and pimps. An individual soliciting a child involved in prostitution or encouraging a child to become involved in prostitution is guilty of child abuse. These individuals may be fined up to $25,000, jailed for up to two years or both.

Legislated Rights of Children

Alberta's *CWA* provides children who receive services under the Act with a number of specific rights that are separate and apart from the right of all children to be protected from abuse and neglect. The Act states that a child's right to express an opinion on decisions that affect him or her is a key consideration in determining his/her best interests. The Act also provides older children with procedural rights, including the initiation of court and appeal panel reviews, and substantive rights to consent to certain decisions and dispositions, including access, adoption, and private guardianship, among others.

Child Abuse/Neglect Protocols

The Children's Services Ministry has developed protocols in consultation with related ministries and agencies. These address reporting, investigation and ongoing case management of services for a child in need of protective services.

"Protocol and Guidelines for Child Welfare Workers and School Personnel", developed jointly with the Department of Education, provides minimum practice guidelines for schools and child welfare workers when working together. CFSAs and local schools are encouraged to undertake their own initiatives to counteract child abuse and neglect.

"Protocols for Handling Child Abuse and Neglect in Day Care Services" provides guidelines for day care and family day home staff to liaise with Child Welfare Services.

The "Young Offender Protocol" was developed jointly with the Department of Justice to establish procedures for interaction between service providers when dealing with children involved with both Child Welfare Services and Young Offenders. The protocol addresses case management, disclosure of information, referrals to Child Welfare Services, the Office of the Children's Advocate, Child Welfare Services investigation of young offender complaints and liaison for ongoing issues.

"Guidelines for Reporting and Investigating Suspected Cases of Children in Need of Protective Services in Women's Emergency Shelters" provides guidelines for shelter staff in liaising with Child Welfare Services. The protocols outline each party's respective roles and responsibilities in cases of suspected child abuse.

"Handicapped Children's Services – Child Welfare Protocol" sets out procedures for interaction between service providers when dealing with children involved with both Child Welfare Services and Handicapped Children's Services.

"The Protocol Relating to Section 643.1 of the Criminal Code" addresses the videotaping of disclosure statements by child sexual abuse victims. It was developed jointly with the Royal Canadian Mounted Police, the Attorney General's Department and the City of Edmonton Police Department. It ensures that statements are suitable for both criminal and Child Welfare Services proceedings, and emphasizes close collaboration between the various agencies involved.

"Responding to Child Abuse: a Handbook" was developed by the Ministries of Children's Services, Learning, Health and Wellness and Justice in consultation with a wide range of stakeholders. It sets out the roles and responsibilities of the various sectors in reporting and investigating child abuse and neglect. It also provides a framework for the development of local policies and procedures.

In April 1991, the "Protocols and Guidelines for Resolution of Issues in Foster Care" were implemented. These outline the procedures to be followed where there is a disagreement between the foster parent and social worker or where the foster parent has concerns regarding a practice issue or the child's service plan.

In Alberta, most protocols are developed at the local rather than provincial level. Child and Family Services Authorities are expected to have protocols with both local police and First Nations; many also have protocols with health authorities and hospitals.

Mandatory Reporting of a Child in Need of Protection

Section 3(1) of the *CWA* states: "Any person who has reasonable and probable grounds to believe and believes that a child is in need of protective services shall forthwith report the matter to a director."

Who Must Report

The duty to report applies to all persons, even those who are obliged by professional standards or by statute to keep information in confidence. Persons must report to a Director all information on which the belief that a child is in need of protective services is founded, even if the information is confidential and its disclosure is prohibited under any other act. The only exception to this duty is information that is privileged as a result of a solicitor-client relationship.

The name of a person who reports to a Director cannot be disclosed or communicated to any person without the written consent of the Minister of Children's Services.

Penalties For Not Reporting

Any person who fails to report to a Director the belief that a child is or may be in need of protective services is liable to a fine of not more than $2,000 or, in default of payment, to imprisonment for a term of not more than six months.

Investigation of Allegation of Abuse or Neglect

Who Investigates

Each referral or allegation is screened within three working days. This process involves deciding whether the referral constitutes a report of a child in need of protective services as defined by the *CWA* and, if so, whether an investigation is warranted. If the referral is not deemed to be a report under the *CWA*, it must not be recorded in the provincial Child Welfare Information System (CWIS). Every referral deemed to be a report must be entered on CWIS even if there are insufficient grounds to proceed with an investigation. If the screening worker determines that the referral is not a report, the caller may be referred to a community resource. If the worker determines that the referral is a report but the child can be protected through accessing a community resource, the worker may refer the family to the resource. If this occurs, the resource must report to Child Welfare Services if any child protection issue subsequently arises.

If a report warrants a full investigation, a response time is assigned. In cases where a child is considered to be at immediate risk or is injured, the response (including screening) must be immediate; in all other situations a maximum of ten working days after the initial screening to complete an investigation is permitted.

In all situations of suspected physical injury or sexual abuse, the worker must, after consulting with the supervisor, report the incident to the police. The police then determine whether criminal charges should be laid. Conversely, the police must refer to Child Welfare Services any matter where the guardian may have caused the child to need protective services. In either situation, Child Welfare Services and the police proceed with a joint investigation. In cases of suspected intra-familial sexual abuse or sexual abuse by a person to whom the guardian has given status (e.g., a babysitter), the child and any siblings must be interviewed by a social worker. If the child does not disclose sexual abuse, the worker must interview the parent(s) and assess the need for protective services. If the child does disclose sexual abuse, the disclosure may be videotaped for future use in either criminal or child welfare proceedings. The worker must interview the non-abusing parent to determine whether the child can be adequately protected; where this is not possible, the child must be apprehended.

Warrants

When a Director has reasonable and probable grounds to believe that a child is in need of protective services, Section 17 of the Act confers the authority to the Director to enter a premises, search for, and apprehend a child. If at all possible, the Director must obtain a court order before apprehending; however, if necessary, this order may be obtained by phone. The order must specifically give authority to enter and search, in order for the Director or police to apprehend by force.

However, when a child's life or health would be in serious and immediate danger of harm due to a delay in obtaining an order, the Director may enter a premises and apprehend without a court order:

- if the child has been abandoned or lost or has no guardian;
- if the child has left the custody of his guardian without consent and, as a result, the guardian is unable to provide the child with the necessities of life; or
- if the child has been, or there is substantial risk that he will be, physically injured or sexually abused.

Mandatory Medical Examinations

During an investigation a child with physical injuries must be visually examined by the worker in the presence of the parent or caregiver; the worker must also arrange for an immediate and complete medical examination. If a parent refuses to consent to a medical examination or is unavailable to consent, the child must be apprehended. If sexual abuse is suspected, the investigating worker must arrange for a medical examination as soon as possible to check for evidence of sexual abuse and the presence of any sexually-transmitted disease. The examining doctor must provide a written medical report.

The Alberta Medical Association has a protocol for the medical examination of an abused child. It guides a physician through the process of receiving a referral from a child welfare worker or police officer and conducting an examination and reporting the results.

The Alberta Children's Hospital Child Abuse Program provides consultation services to physicians in the community regarding issues related to the identification, reporting and referral of child abuse cases. The program also focuses on consultation, training, research and development of hospital protocols for dealing with child abuse. The program is not directly involved with the provision of medical assessments for child maltreatment.

Risk Assessment/Risk Management

The Ministry is currently developing both a risk assessment tool and a risk reduction tool that will be implemented in the near future. Calgary and Edmonton have a number of Child Abuse Referral and Response and Teams (CARRT) that consist of a police officer and child welfare worker who respond as a team to referrals received by either organization.

Departmental Role in Investigation of Third Party Abuse

According to the *CWA*, a child can be placed in need of protective services only in response to the action or inaction of the guardian. Therefore, extra-familial abuse is not covered under the Act unless the guardian does not take action to protect the child. For operational purposes, the Ministry has concluded that a child's guardian is expected to protect the child from a person over whom the guardian should have influence, such as a boyfriend or babysitter. A guardian cannot be expected to have influence over a person to whom the community gives status, such as a child care worker, a teacher or a religious leader.

When a Director or a delegate receives a report and it is determined that the alleged perpetrator is not the parent or guardian, the reporter is advised to make the report directly to the police. Child Welfare Services will also report this contact to the police. Should the police subsequently report that the guardian is not protecting the child, Child Welfare Services investigates that concern. If the alleged perpetrator is a staff member of an organization such as a school, day care or women's shelter, Child Welfare Services will also refer the concern to the CEO, or equivalent, who is responsible for that staff member.

Investigation of Child Deaths

A Medical Examiner (ME) is notified of any person's death that is unexpected, unexplained or violent, and all deaths of children in the care of the Director. The ME provides reports on a child's death to the Ministry upon request.

The ME refers every death of a child in care to the Fatality Review Board to be considered for a fatality inquiry if the death was unnatural, undetermined or suspicious. The Board recommends to the Minister of Justice whether to hold a public fatality inquiry. The Fatality Review Board recommends an inquiry unless it is satisfied that the death was natural and unpreventable and that the public interest would not be served by holding an inquiry.

In the case of unexpected death of a child known to the Ministry, the Ministry reviews the circumstances, and if the review board determines that a special case review is likely to be useful, conducts an in-depth special case study review to identify best practices and make any recommendations for systemic change.

Child Abuse Register

Alberta does not operate a child abuse register. Alberta's Child Welfare Information System (CWIS) is a centralized database of information on open and historical protection cases. Access to CWIS information is restricted to Child Welfare Services staff, and only for the purposes of administering the *CWA*.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases), or by an order by the court. The type and level of intervention are dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

There are five types of voluntary agreements that the Director may enter into with the guardian of a child or young adults who have received child welfare services:

1) support agreements,
2) custody agreements,

3) access, maintenance or consultation agreements,
4) permanent guardianship agreements, and
5) care and maintenance agreements.

A support or custody agreement allows for a family to access child welfare services without a court hearing and permits the Director to provide protective services in the least intrusive manner. Access, maintenance or consultation agreements are used in conjunction with Temporary Guardianship Orders. A Permanent Guardianship Agreement allows a guardian to surrender an infant to the Director for the purpose of adoption. Care and maintenance agreements allow for continuation of services for young adults who have been in care.

A **Voluntary Support Agreement** allows for the provision of services to a child and family when the child needs protection but is able to remain safely at home. The agreement may be entered into by a custodian who does not have guardianship, if the guardian has placed the child with that person. A child 16 or 17 years of age who has established independence may also enter an agreement. While the agreement is in effect, the worker provides or arranges support services, the child remains in the home and the parent retains guardianship. A support agreement can last for up to six months at a time and can be renewed as often as needed. The required services are negotiated between the parent, the worker, and the child and are written in a service plan. The parent is expected to pay for as much of the cost of services as possible and the worker visits regularly to monitor the safety of the child and the progress of the plan.

A **Custody Agreement** is made between a Director and the parent of a child who needs protection and cannot remain safely at home. A child 16 or 17 years of age who has established independence may also enter into an agreement. The parent continues to be the guardian and makes as many decisions for the child as possible and pays as much of the child's costs as possible. While the agreement is in effect, the parent delegates custody and the authority needed to care for the child to the Director. Simultaneously, the worker provides services to the family that will make it safe for the child to return home. The maximum duration of a Custody Agreement is six months and it can be renewed for six month periods, up to a total of two years cumulative time in the Director's care under any status.

A Custody Agreement between a guardian or a child and a Director must include terms prescribing:

- the plan for the care of the child, including a description of the services to be provided;
- the visits or other access to be provided between the child and his or her guardian or any other person;
- the extent of the delegation of the authority of the guardian to the Director; and
- the contributions (financial or otherwise) to be made by the guardian for the maintenance of the child while in the custody of the Director.

During the period of the agreement, the parent or the worker may request a review. The parties can sign a new agreement to vary it, make new or different terms, or extend it. The parent or worker can end the agreement at any time.

A **Permanent Guardianship Agreement** contains the terms by which an infant is relinquished to the guardianship of a Director for the purposes of adoption. If a child has been in the actual custody of at least one of his or her guardians for a cumulative period of less than six months, the guardians of the child and the Director may enter into a Permanent Guardianship Agreement. A guardian who has entered into this agreement under Section 10 of the *CWA* may, within 10 days of the date of the agreement, request in writing that the Director terminate the agreement and return the child within 48 hours.

An **Access, Maintenance or Consultation Agreement** sets out the terms for a guardian or significant other to visit, to contribute to the care and maintenance of, or to be consulted regarding a child who is the subject of a Temporary Guardianship Order. If an agreement cannot be reached or is not followed, any party may apply to have the court set the terms.

A **Care and Maintenance Agreement** is a contract between a young adult who has received child welfare services and does not include child protective services. It is intended to allow the young adult to achieve any unmet goals of the service plan and to support his or her transition to independence through building an informal support network. The agreement includes terms negotiated between the young adult and the Director, such as duration (up to six months), services required that are unavailable elsewhere, supervision and review requirements, mutual expectations and other terms as deemed necessary. A Care and Maintenance Agreement can be entered, varied, terminated, re-entered or extended at any time until the young adult's 20th birthday.

Court-Ordered Protection

Where less intrusive measures are not feasible or are inadequate, or the child has been apprehended, the social worker applies for a protection hearing in Family Court. If the judge finds that the child is in need of protective services, a court order may be issued.

A **Supervision Order** allows Child Welfare Services to supervise the family in the home while providing specified services. An Order may not exceed six months, but may be extended indefinitely by the court. The terms of a Supervision Order include the frequency of visits to the home by a social worker or the assessment and treatment of the child or other person residing with the child.

A **Temporary Guardianship Order** is used when the child cannot be protected while staying with the family, but is expected to return home or become independent within a reasonable period of time. Under this Order, custody and guardianship of the child are extended to a Director; however, guardianship is also shared with the child's original guardian. The court may order terms for access, consultation or financial contributions, and may order any person who would assume custody of the child when returned to submit to an assessment. The Director must file a plan of care to the court within 30 days after obtaining the Order that describes the services to be provided to the child and family. The initial duration of this Order may not exceed one year, but it may be extended for an additional year up to a maximum of two years cumulative time in care under any status. In special cases, it is possible to obtain a court-ordered extension of up to one additional year.

A **Permanent Guardianship Order** is issued when there is little likelihood that the child's guardian will, within a reasonable time, be willing or able to ensure the child's security, survival or development. A Permanent Guardianship Order remains in effect until it is terminated by the court; a Private Guardianship Order is made; an Adoption Order is made; the child becomes 18 years of age; or the child marries.

Under Section 28 of the *CWA*, a **Restraining Order** may be issued to prevent any person who has abused or is likely to abuse a child from residing with or contacting a child who has either been apprehended or is the subject of any order. This Order may be granted for up to six months and may be renewed.

Through the *Protection Against Family Violence Act (PAFVA)*, an abusive family member may be removed from the home without criminal charges being laid. In an emergency, a police officer or a Director may obtain an **Emergency Protection Order** by phone. A warrant may also be obtained that allows a police officer to enter a home and check that a person is safe if no one has been able to see that person for a significant period of time.

Appeals

A Supervision Order or Temporary Guardianship Order can be appealed within 30 days. After the appeal period has expired, the Director, the guardian, or the child (if over 12 years of age) may apply for a review of the Order to vary, renew or terminate it.

Extended Care

Section 33(2) allows a Director to extend care and maintenance under a Care and Maintenance Agreement to a young adult between the ages of 18 and 20 who was the subject of a Permanent Guardianship Order, a Temporary Guardianship Order, or an agreement with the Director in effect on the person's 18th birthday.

Support Services

Preventive Services

Preventive services are provided by Family and Community Support Services in local communities. Each community develops its services in response to local needs and receives 80% funding from the province.

Each CFSA also funds early intervention programs that are developed by local community partnerships in response to local needs.

Child Protective Services

A person or agency other than a CFSA may provide services to a family or child according to the service plan. The child welfare worker assists the family to access existing community services. If none are freely available or the family cannot pay for an essential service, Child Welfare Services may purchase the service on behalf of the family. Services that are purchased include:

- counselling for the child or family;
- family/youth worker – providing recreation, relationship building, social skills development and access to community services;
- therapeutic support – skill teaching or behaviour modification for the child or parent, social or behavioural assessments;
- homemaker services – child care, domestic services, teaching of home care and child care;
- parent aide – teaching homemaking and parenting skills, conflict resolution, advocacy, therapeutic support, transportation and accompaniment to appointments;
- driver services – transportation;
- agency foster care and group care; and
- residential treatment.

Placement Resources

Foster Care

Alberta's foster care program is based on the belief that family unit and parent models are the most desirable context for child-rearing. Foster care is considered as supplemental care when the child's natural family is unable or unwilling to assume full responsibility for the child.

All families applying to foster a child must complete pre-service training. Once approved, all foster parents must complete the approved training program within two years. If a family wishes to move along the foster care continuum, they must complete the corresponding training. All foster homes must be evaluated annually to ensure they are meeting program standards and each adult living in the home must provide the results of a criminal record check every three years. Emergency homes are available 24 hours a day, seven days a week to provide emergency care to children.

The Ministry Foster Care Model consists of three different foster home classifications: approved, qualified and advanced. Each classification within the general foster care program reflects the qualifications and level of skills of the foster family.

Approved Foster Care

Approved Foster Care homes provide care for children who have minor disabilities and/or whose problems can be resolved with quality care and specific supports. The maximum number of children per home is three.

Qualified Foster Care

Qualified Foster Care provides both developmental care and professional resources to resolve or meet the needs of a moderately disabled child. The maximum number of children permitted is three.

Advanced Foster Care

Advanced Foster Care provides care for children who are at risk of requiring institutional care because of emotional or behavioural problems, medical conditions and physical or mental handicaps. The maximum number of children permitted is two.

Specified Homes

Specified Homes are approved for a specific child or children where a relationship already exists with the caregivers; the home is closed when the child leaves.

Alberta Foster Parent Association

The Alberta Foster Parent Association (AFPA) is a non-profit society that was registered in 1974 to act as the collective voice and central resource for all foster parents in Alberta. A Regional Director from each of six regions and three Native Regional Directors are elected each year to sit on the provincial AFPA Board of Directors. The AFPA works closely with Alberta Children's Services and is a member of the Canadian Foster Family Association.

Investigation of Allegations Against Foster Homes

A child welfare worker, child in care or other person may lodge a complaint about the out-of-home care services that a child is receiving, or allege neglect or abuse by a foster parent or other caregiver. In all cases of alleged neglect or abuse of a child in care, the Children's Advocate must be notified. Child Welfare Services staff determine whether an investigation under the *CWA* is needed; if one is, it is conducted by a senior investigator with no prior involvement in the case or responsibility for the placement resource. Foster families who are accused of abuse or neglect are referred to the Foster Allegation Support Team (FAST) of the Alberta Foster Parents Association for support, such as having a representative present during investigative interviews.

When an investigation of allegations of abuse or neglect against a foster home or residential caregiver is concluded, a determination of the status of the home as a resource is made by the foster care worker and management staff. The foster care worker notifies the foster home within 20 days of the completion of the investigation regarding the determination of status, the reason for decisions and the review/appeal procedure.

An allegation of abuse against any staff member other than foster or residential care workers is not handled as an investigation under the *CWA*. These are handled by police as a criminal matter with the possibility of an internal investigation by the employer and the professional governing body.

Group Care and Residential Treatment Care

Most group and residential care is provided under contract by child care agencies. CFSAs contract with child care agencies to provide these models of care, including Treatment Foster Care. The Treatment Foster Care Program provides services to children with complicated service needs because of serious emotional or behavioural problems, medical conditions, mental disorders or physical or mental handicaps. Under these contracts, the agencies recruit, approve, train, support and supervise the foster homes.

Secure Treatment

Secure treatment is a group of services provided to a child who needs to be confined in a restricted and highly supervised environment. It is the most restrictive protective service provided for by the *CWA* and is provided only in a special secure treatment institution staffed by trained child care counsellors.

Treatment staff at the secure treatment institution assess the child's psychological needs and daily living skills. Within three days after the child arrives, a psychologist or psychiatrist develops a plan for reducing the problem that caused the child to need secure treatment. The treatment goal is to have the child move home or to some other less restrictive place as quickly as possible.

The criteria for the use of secure treatment include a child who has been apprehended or is under a Director's guardianship, who has a severe mental or behavioural problem and has done something that placed herself, himself or others at immediate risk of serious bodily harm. Secure treatment is considered only when it can likely reduce the problem and when less restrictive services cannot meet the child's needs or the child will not accept services or stay under adult supervision. The *CWA* provides three ways for a child welfare worker to admit a child to secure treatment: confinement, a secure treatment certificate or a Secure Treatment Order.

Confinement: If a child who is not under a Director's guardianship is in a condition that presents a danger to the child or others, the worker can apprehend the child and then admit him or her to a secure setting for up to three days. A psychologist evaluates the child's need for secure treatment and within three days a show cause hearing occurs, where the parent and child may attend with a lawyer. If a judge finds that the child in fact needs secure treatment, the worker can apply for a Secure Treatment Order or ask for authority to confine the child for up to six more days.

Secure Treatment Certificate: If a child under a Director's guardianship needs secure treatment immediately, the worker can request a secure treatment certificate from a delegated manager. With this certificate, the worker can admit the child to a secure setting for up to 10 days. A psychologist assesses the child as soon as possible and within 10 days a show cause hearing occurs. If the assessment recommends continuing secure treatment, the worker applies for a Secure Treatment Order at the show cause hearing.

Secure Treatment Order: If a child who has been apprehended or who is under a Director's guardianship needs continued secure treatment, the worker can apply for a Secure Treatment Order. Both the child and the parent have the right to appear at this hearing. The worker helps the child get legal representation from the Legal Aid Society of Alberta. The child, the parent or the Director may appeal the judge's decision within 30 days at the Court of Queen's Bench. During a secure treatment term, the child, the parent, or the worker may apply to the court for a review where the judge may shorten the Order, terminate it or leave it the same.

The Court may order secure treatment for a period of not more than 30 days. It may be renewed for up to 60 days in the case of the first renewal or 90 days in subsequent renewals or for the period of the guardianship order, whichever is the shorter.

Protective Safe House

A protective safe house is a secured facility with restricted access. Under the *PChIP Act* a child involved in prostitution can be apprehended and taken to a protective safe house, where he or she may be confined for up to 72 hours. While staying at the protective safe house, the child is protected and receives emergency care, treatment and a three-part assessment:

1. A preliminary assessment to determine the child's physical health, nutritional status, and drug/alcohol use;
2. A crisis risk assessment to determine the child's risk of self-harm and risk of returning to prostitution; and
3. A preliminary child protection assessment to determine if the child's survival, security or development are at risk.

Adoptions

Adoption is a legal process that establishes parent-child relationships and provides permanence and security for children. The Court of Queen's Bench makes the final decision whether or not to grant all adoption orders. Children may be adopted through:

- Alberta Children's Services ward adoptions;
- licensed adoption agencies;
- the international program;
- private direct placement; or
- spousal/relative adoptions.

Ward Adoption

The Ministry, through Children and Family Services Authorities, places children who are under the permanent guardianship of a Director for adoption (ward adoption) and completes all the legal work necessary to obtain an adoption order free of charge. Children available for a Children's Services adoption range from healthy newborns to children with special needs. Special needs include sibling groups, racial minorities, older children and children with medical, physical, mental, or emotional problems.

Children are matched for adoption with families who are trained and approved by the Ministry through a centralized process. Priority is given to applicants who are willing to consider children with special needs.

A parent who surrenders an infant to a CFSA for adoption may select the adoptive family from non-identifying profiles. The child's social worker makes the final matching decision for special needs children. If no family is available for a referred child, media recruitment through the Wednesday's Child television program, photo-listing, newspapers and newsletters is utilized.

Licensed Agency Adoption

Birth parents may choose to place their children (who are not under a *CWA* court order) for adoption through a licensed adoption agency. There are seven non-government, non-profit agencies that have been granted the authority to arrange private adoptions in Alberta. These agencies are licensed and monitored by Children's Services and meet the same approval requirements as ward adoptions. Licensed adoption agencies may charge the adoptive applicants a fee for screening, court documents and home assessments. The majority of agency placements are open adoptions.

Private Adoption

In a private direct adoption, birth parents may place their child directly with a family they know. Both the birth parents and the prospective adoptive parents must notify Child Welfare Services about the placement. A licensed agency chosen by the adopting parents processes the paperwork, completes the home assessment and prepares the court documents.

Spousal/Relative Adoption

Spousal and relative adoptions (grandchild, niece, nephew, great-niece or great-nephew) may be processed by the applicants themselves (or by lawyers) by using adoption self-help kits. Child Welfare Services receives notice about the adoption hearing and checks the CWIS to determine whether there is a child protection concern about the petitioners. If Child Welfare Services has a concern, it notifies the Court. The majority of spousal/relative adoptions do not require a home assessment report; however, the judge may order the petitioners to undergo an assessment.

International Adoption

The Province of Alberta is a signatory to the Hague Convention on International Adoptions. The *CWA* identifies the Minister of Children's Services as the central authority for Alberta. The Ministry manages international adoptions as a provincial adoption service.

Post Adoption Supports

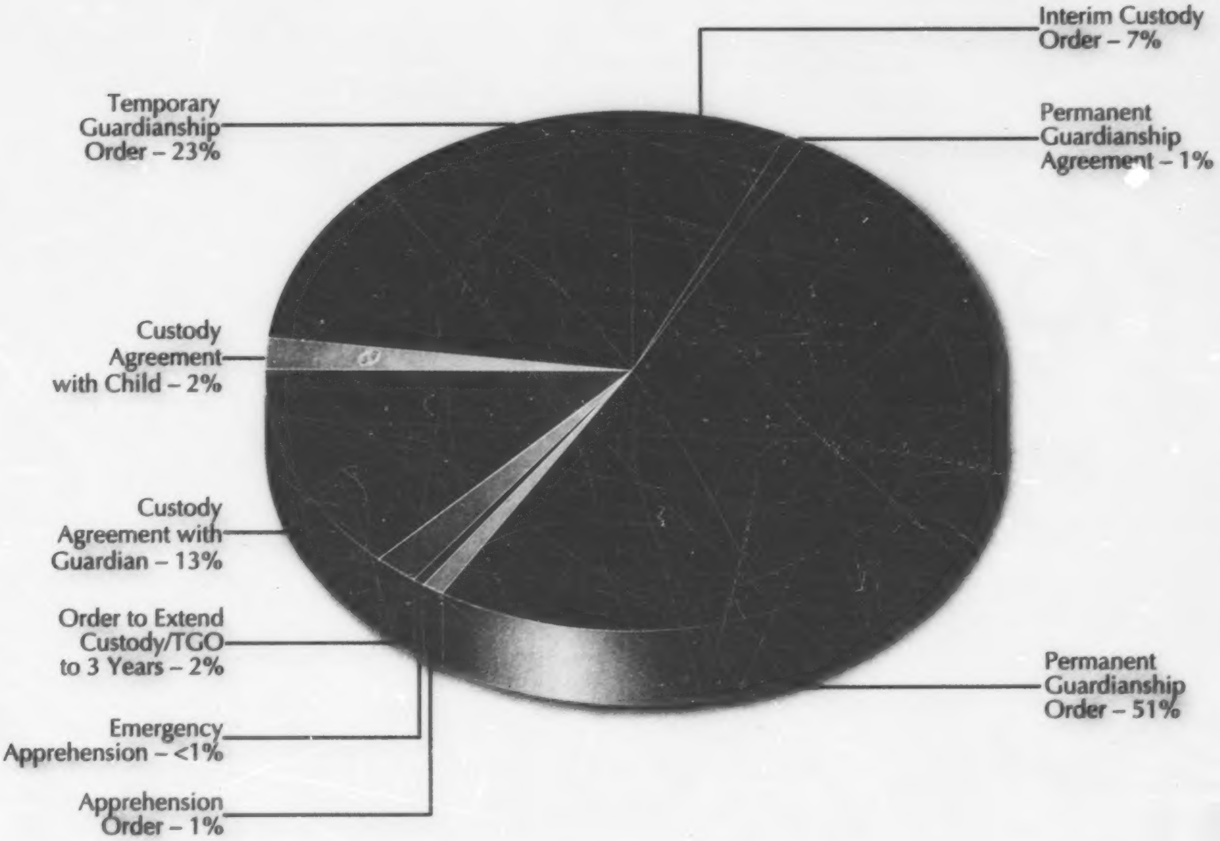
Post Adoption Supports are available to adoptive families to help meet the special needs of children who were in the permanent care of the Ministry. Some families, depending upon their financial circumstances, may also be eligible for a financial subsidy to adopt a child whose special need is to maintain a long-term significant emotional tie with the adoptive family. An agreement for post-adoption supports is made for a maximum of one year and may be renewed or renegotiated as the child's or family's needs change.

Statistics

Due to the limitations noted in the Introduction, Alberta data should not be compared with data for other jurisdictions.

Figure 9.1

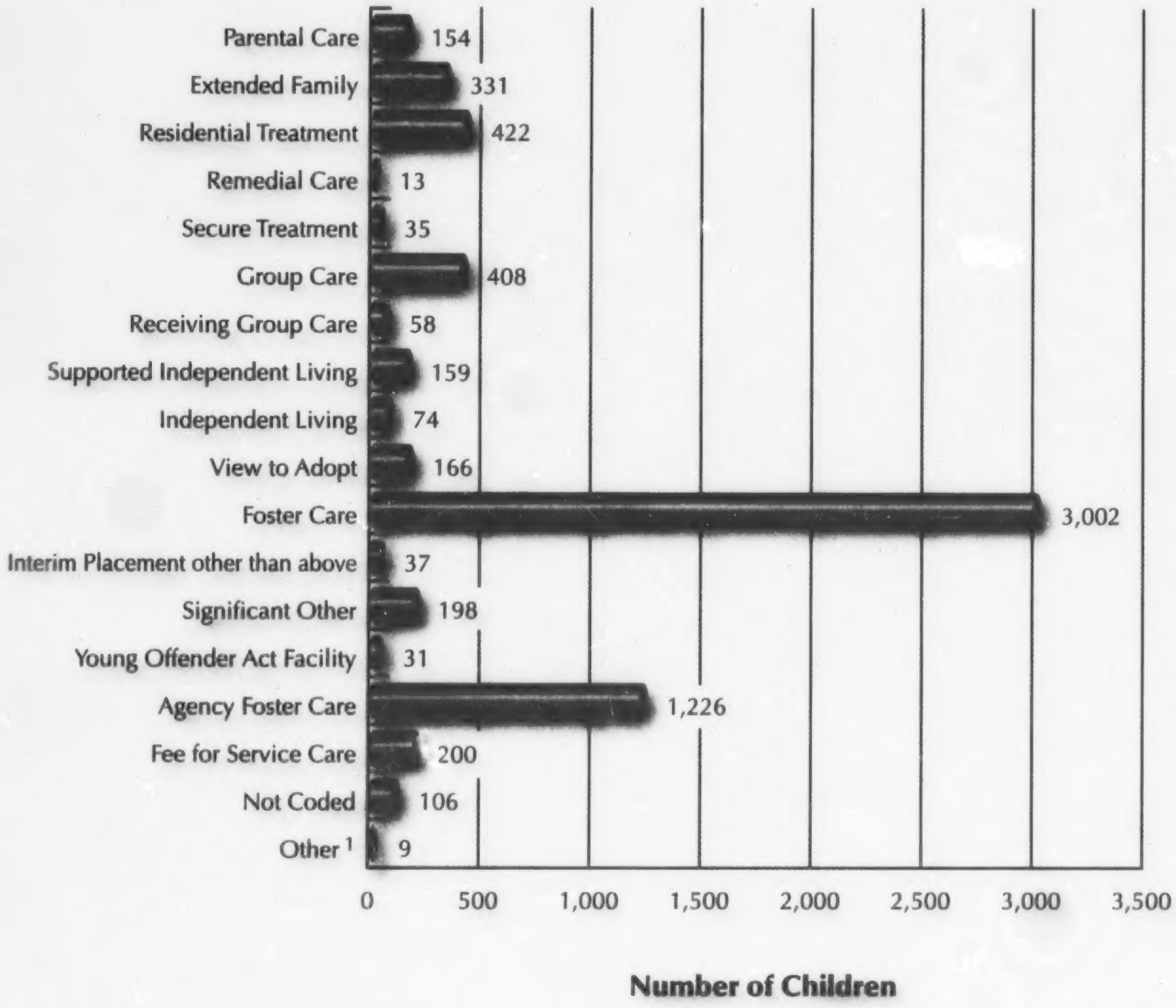
Children in Care by Legal Authority as at March 31, 1999



Children in care: 6,629

Figure 9.2

Children in Care by Placement Type as at March 31, 1999



1 Includes residential education (2), auxiliary medical (2), drug and alcohol management (2) and behavioural adaptation therapy (3).

Children in care: 6,629

Resource Material

Legislative Material

Child Welfare Act, S.A. 1984, c. C-8.1.

Protection of Children Involved in Prostitution Act, S.A. 1999, c. P-19.3.

Child and Family Services Authorities Act, S.A. 1996, c. C-7.3.

Protection Against Family Violence Act, S.A. 1999, c. P-19.2.

Social Work Profession Act, 1995, c. S-16.5.

Psychology Profession Act, 1987, c. P-25.

Reports

Children's Advocate Office. *Children's Advocate Report 1997–1998.*

Other

Alberta Children's Services Web site: **http://www.gov.ab.ca/cs/**

Alberta Family and Social Services. *A Governance Framework for Child and Family Services Authorities (1999).*

Child and Family Services Secretariat. *The Alberta Children's Initiative (1998).*

Child and Family Services Authorities and Alberta Justice. *Young Offender Protocol.*

10 BRITISH COLUMBIA

Administration and Service Delivery

Administration

All services for children and families in British Columbia, including child welfare, have been consolidated under one ministry that is governed by several provincial acts. The Ministry for Children and Families (MCF)[1] was formed on September 23, 1996 by transferring existing programs serving children, youth and families from the Ministries of Education, Health, Social Services, Attorney General and Women's Equality to the newly created MCF.

The *Child, Family and Community Service Act (CF&CS)* is the legislative authority for the Ministry's child protection services. The Child Protection Division of the Ministry for Children and Families is responsible for the development of policies, standards and programs, and for the overall quality of services provided to children and families under the *CF&CS Act*, the *Adoption Act*, and the *Secure Care Act*. These responsibilities include adoption, child protection and guardianship services. The Division also has the responsibility to assist in building the capacity of Aboriginal agencies delegated to deliver services under the legislation, and to ensure the quality of those services. To meet its responsibilities, the Division has five branches or work teams: Child Protection Policy and Standards, Guardianship Policy and Standards, Adoption Services, Aboriginal Services, and Quality Assurance.

The *CF&CS Act* names the "Director" as the primary person responsible for fulfilling the powers and duties articulated in the Act. The Director is designated by the Minister of Children and Families to administer the Act and to function as the director of the Child Protection Division of the MCF.

Service Delivery Network

Child protection services across the province are provided through approximately 200 ministry offices in 11 regions. Each region has a Regional Operating Agency that administers services. Six First Nations Child and Family Service Agencies provide fully delegated services to a total of 53 Bands in the province. The authority of the designated Director is further delegated to a range of ministry staff who manage the service delivery system, oversee the operations of the system and ultimately carry out the provision of services in the community.

In each of the 11 regions the Ministry has established at least one Child Abuse Team to provide intake and investigation. Each region also has a Child Protection Manager as well as a Child Protection Consultant, who consults on difficult or complex cases and provides specialized training. In addition, the Rapid Response Team ensures an efficient rapid response mechanism to provide temporary assistance to regions around the province when extraordinary situations arise that exceed the capacity of child protection services in that region. The team consists of two child protection supervisors and eight experienced child protection workers employed through the Provincial After-Hours Service.

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[1] In June 2001, the new Ministry of Children and Family Development was created.

Suspected Child Abuse and Neglect (SCAN) teams provide diagnostic and psychosocial assessments, provide education and training/orientation on child abuse and neglect for child and family service providers and serve as a link to community resources. Child Protection Consultants can refer cases directly to the SCAN team for assessment. British Columbia's Children's Hospital (BCCH) is contracted to provide consultation to other hospitals wishing to develop their own SCAN teams. There are three regional SCAN teams and a fourth is planned. BCCH also provides province-wide assessment and consultation services.

The British Columbia Provincial Prostitution Unit is an initiative involving the MCF, Vancouver Police Department, the RCMP and the Ministry of Attorney General. The Unit was created to assist sexually exploited youth by co-ordinating information and training for workers on this issue, as well as identifying and prosecuting those individuals who sexually exploit youth.

Community organizations are also contracted to provide prevention and support services, including residential and counselling services, to children and families.

Secure Care Board

In June 2000, the *Secure Care Act* was passed in British Columbia. The Act creates an independent Secure Care Board and a Director of Secure Care within the Ministry for Children and Families. Under the Act, a parent, guardian or the Director of Secure Care may apply to the Board to have a young person assessed for secure care. The Board considers the risk of serious harm to the young person and whether other options are available before issuing a secure care certificate. A secure care certificate allows for a child to be taken into secure care for up to 30 days; extensions are allowable in exceptional circumstances. In an emergency, authorities can detain a young person in secure care without a certificate for up to 72 hours while the Board reviews the circumstances of the emergency and considers the need for a secure care certificate. Youth cannot be detained beyond 72 hours without a Secure Care Board review.

The Child, Youth and Family Advocate is notified of every secure care hearing and copies of the mandatory comprehensive assessment and plan of care for each child are filed with the BC Children's Commissioner. The *Secure Care Act* has not yet been proclaimed and the Ministry is developing regulations and policy to guide service provision with a range of services, including after care. The *Secure Care Act* is expected to come into force late in 2001.

After Hours

To provide round-the-clock response to child protection reports, the Ministry operates an after-hours service and a toll-free Helpline for Children that anyone can call to report suspected child abuse and neglect. The Helpline is located at the after-hours offices in Vancouver/New Westminster. Upon receiving a report, after-hours staff contact either regional after-hours offices (for regions which have this service) or the local Ministry office child protection "on-call" staff who assess the report and respond. In addition, there is a 24-hour Foster Care Support line staffed by experienced foster caregivers who provide support and information to foster families.

Human Resources

All child protection workers are required to hold a Bachelor of Social Work degree or a relevant degree (such as Child and Youth Care) as the minimum qualification for employment. New graduates or workers without previous child welfare experience are required to complete an 11 week pre-employment training program that is delivered by a consortium of educational institutions in the province.

A limited amount of authority is delegated to new child protection staff. This allows new staff the opportunity during a six-month probation period to complete core skills training while under the supervision of the district supervisor or a senior social worker. Protection and family service workers are recommended to receive full delegation of authority under the *CF&CS Act* from the Director when: a) they complete core training or demonstrate competencies that are attained through training, b) they successfully complete a 6-month probationary period, and c) they pass a written, standardized competency exam.

Beginning in fall 2000, a Bachelor of Child Welfare specialist degree will prepare graduates as child protection workers. These graduates will be almost job-ready and will not require pre-employment training.

The Ministry's Staff Training Division develops training courses on new practice areas such as the BC Risk Assessment Model. Such training, which relates to service delivery across the province, is mandatory. As part of their individual training plan developed with their supervisor, workers may request to attend courses, workshops or conferences to support their own professional development. Each region has at least one Child Protection Consultant who plans and participates in advanced training opportunities, enabling consultants to provide advice to child protection workers on emerging practice issues.

The Ministry's Corporate Services Division has developed an Aboriginal training strategy that supports First Nations Child and Family Service Agencies in delivering child and family services to their communities.

Office of the Child, Youth and Family Advocate

The Office of the Child, Youth and Family Advocate for the province of British Columbia is governed by the *Child, Youth and Family Advocacy Act*. The Advocate is an officer of the Legislature appointed by a special committee of the Legislative Assembly for a term of six years (renewable). The Advocate reports annually (or delivers special reports) to the Legislature and may also comment publicly on matters investigated under the *Child, Youth and Family Advocacy Act*.

The functions of the Office of the Child, Youth and Family Advocate are investigating cases (whether or not a complaint has been made), participating in information-sharing or decision-making processes and making agreements with Ministers, agencies and community organizations to assure the provision of advocacy services. The Advocate does not have the power to act as legal counsel. The Advocate can delegate the duties, powers and function of the office to any person, agency or community organization, including the right to enter any premises where services designated by the Ministry are provided to children or youth.

The Children's Commission

The *Children's Commission Act* governs the activities of the Children's Commission, thus allowing its independence from the Ministry for Children and Families. Reports generated by the Commission are directed to the Attorney General. The Children's Commission provides independent oversight of BC's greater child-serving system (including the MCF) across and outside government through:

- review and investigation of all child fatalities and critical injuries to children in care;

- review of plans of care for children in continuing custody to ensure compliance with legislation and policy;
- resolution of complaints about breaches of rights or decisions about provision of services to children and monitoring government's internal process for resolving complaints; and
- keeping the public informed and inviting public comment on the child-serving system in BC.

The Office of the Ombudsman

The Office of the Ombudsman of BC, governed by the *Ombudsman Act*, may investigate a complaint about services provided by a public body. The Ombudsman reports annually and makes special reports or comments to the Legislature on specific issues that require remedial action. The Ombudsman is an officer of the Legislature, appointed by a special committee of the Legislative Assembly for a term of six years, renewable for two additional two-year terms.

The Ombudsman may examine complaints not resolved by the Office of the Child, Youth and Family Advocate or investigated by the Children's Commission (when the matter concerns a public body such as a government service, school or hospital). The Ombudsman may summon an individual and examine under oath those able to give information relevant to an investigation.

First Nations

Legislation

There are numerous provisions within the *CF&CS Act* that pertain to Aboriginal children and families. Part I of the Act contains three sections that refer specifically to Aboriginal people. Section 2(f), states that "the cultural identity of Aboriginal children should be preserved". Section 3(b), which identifies service delivery principles, states that "Aboriginal people should be involved in the planning and delivery of services to Aboriginal families and their children". Section 4(2) states that "if the child is an Aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests."

When an Aboriginal child is removed from a family, Section 34 of the *CF&CS Act* requires that the Aboriginal community be notified about the resulting court hearing. If a community representative attends and chooses to participate, that person can become party to the proceedings. With this status, an Aboriginal representative receives all documents relating to the orders being requested and the evidence that other parties intend to present. Representatives can speak at a hearing, call their own witnesses and question witnesses called by other parties. When all parties agree, an Aboriginal representative can participate in any mediation or alternative dispute process and can propose an alternative plan for the child's care.

When an Aboriginal child is placed out of his or her home, Sub-section 71(3) of the *CF&CS Act* describes the priorities for placement decisions by stating: "If the child is an aboriginal child, the director must give priority to placing the child as follows:

(a) with the child's extended family or within the child's aboriginal cultural community;

(b) with another aboriginal family, if the child cannot be safely placed under paragraph (a)."

Administration

The Aboriginal Services Branch, which is part of the Ministry's Child Protection Division, encourages the development of formal agreements with Aboriginal communities to provide services under the *CF&CS Act*.

Aboriginal Services Branch is responsible for working with Aboriginal communities to help them build the capacity to provide child protection services. The Branch collaborates with delegated Aboriginal Child and Family Service Agencies to develop policies, practice standards, and a quality assurance program.

The Aboriginal Services Branch also supports local Ministry staff in developing protocols that explain the respective roles and responsibilities of the Ministry and Aboriginal communities. These protocols explain how both parties will work together to provide services and consult each other regarding services to Aboriginal children and families. Wherever possible, the Ministry will seek to have services for Aboriginal people provided by Aboriginal people, anticipating that most communities (on or off-reserve) will develop operational child and family service agencies with full delegation of authority. The Minister for Children and Families is required to designate Aboriginal communities for the purposes of the *CF&CS Act*, e.g., receiving notices of hearings that involve Aboriginal children.

Agencies

As of September 1, 2000, six First Nations Child and Family Service Agencies in BC have workers with full delegated authority under the *CF&CS Act*, providing services to 53 Bands. Another three Agencies have authority to provide only voluntary care services, foster home recruitment and development, continuing custody, and voluntary care agreements to an additional 11 Bands. Four more Agencies have authority to provide support services only (such as child care and community-based supports) and recruitment and development of foster homes to a further 15 Aboriginal communities.

Definitions

Child

Section 1 of the *CF&CS Act* defines a **child** as a person under 19 years old and includes youth (16 years of age and over but less than 19 years of age). Section 1 of *The Adoption Act* also defines a child as a person under 19 years of age.

Child In Need of Protection

Section 13 of the *CF&CS Act* defines a child in need of protection as follows: "**A child needs protection in the following circumstances:**

(a) if the child has been, or is likely to be, physically harmed by the child's parent;

(b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;

(c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;

(d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;

(e) if the child is emotionally harmed by the parent's conduct;

(f) if the child is deprived of necessary health care;

(g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;

(h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;

(i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;

(j) if the child's parent is dead and adequate provision has not been made for the child's care;

(k) if the child has been abandoned and adequate provision has not been made for the child's care;

(l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

Sub-section 13(2) states that "a child is emotionally harmed if the child demonstrates severe

(a) anxiety,

(b) depression,

(c) withdrawal, or

(d) self-destructive or aggressive behaviour."

Sub-section 13(1.1) states that "a child has been or is likely to be 'sexually abused' or 'sexually exploited' if the child has been, or is likely to be,

(a) encouraged or helped to engage in prostitution, or

(b) coerced or inveigled into engaging in prostitution."

There is no statutory definition of child abuse in the *CF&CS Act*. Operational definitions for child abuse and neglect are founded on the definition of "child in need of protection" in *The BC Handbook for Action on Child Abuse and Neglect* (1998).

Legislated Rights of Children

The statutory rights of children in care are listed in Section 70 of the *CF&CS Act*. The 15 specific rights in Section 70 range from a child's right to basic care and safety, to access to the Office of the Child, Youth and Family Advocate. Section 70 does not apply to a child who is in a place of confinement under the *Mental Health Act* or a correctional centre, youth containment centre or other lawful place of confinement.

Child Abuse/Neglect Protocols

The Ministry has established a service delivery protocol between social workers delegated under Part 3 of the *CF&CS Act* (child protection) and social workers delivering services to children and adults with mental handicaps under Part 2 (support services) of the Act. This protocol sets the parameters of service for workers when a child protection concern arises in a family that requires support due to mental handicap of the child or caregiver. The purpose of this protocol is to maintain supports and deliver services through the appropriate stream (either child protection or mental handicap support services) during and after the investigation of a protection concern.

The "Protocol for Communication between Staff of Ministry of Children and Families and Physicians" establishes guidelines for information sharing involving Ministry staff and medical professionals to ensure the safety and well-being of children. Ministry social workers may request full details or a written report from physicians on a child who is reported to be in need of protection. Physicians will only release information to Ministry social workers with the patient's consent, by court order under Section 65 of the *CF&CS Act*, or in circumstances that fall under Section 22 of the *Canadian Medical Association Code of Ethics*. The protocol also covers information required by the Ministry for the purposes of a child protection investigation after a report has been received and for the purposes of providing ongoing health services for all children in care, children remanded with consent and children under Supervision Orders.

Three protocols have been established between the Ministry and the BC Federation of Foster Parent Associations. The leaflet

Dealing with Difficulties in Foster Homes: A Guide for Foster Parents, outlines procedures for the following protocols:

- Protocol for Investigating Reports of Abuse or Neglect in Foster Homes (see Foster Care section);
- Protocol for Reviewing Quality of Care Concerns; and
- Protocol for Resolving Issues.

Protocols that are specific to the investigation and reporting of child abuse are described in the corresponding sections that follow.

Mandatory Reporting of a Child in Need of Protection

Section 14(1) of the *CF&CS Act* states: "A person who has reason to believe that a child:

(a) has been, or is likely to be, physically harmed, sexually abused or sexually exploited by a parent or other person, or

(b) needs protection under Section 13(1) (e) to (k) *(partial CF&CS definition of child in need of protection)* must promptly report the matter to a director or a person designated by a director."

Who Must Report

The duty to report extends to everyone in the province including the public, parents, family members, caregivers, service providers, police, priests, ministers and religious leaders, health care providers and teachers. The Director (and delegates) is also required to report. All reports of suspected child abuse or neglect from any source must be made to the Director or to a designate.

The duty to report applies to information received from confidential or privileged sources (except a solicitor-client relationship when seeking, formulating or giving legal advice). Section 14 of the *CF&CS Act* overrides the confidentiality provisions of 11 other provincial acts whose provisions could possibly impede the earliest reporting of suspected child abuse.

Penalties for Not Reporting

A person who fails to report that a child may be in need of protection or knowingly reports false information commits an offence and is liable to a fine of up to $10,000 or to imprisonment for up to six months, or both.

Investigation of Allegations of Abuse or Neglect

Who Investigates

Child protection workers, delegated by the Director, assess and investigate reports of child abuse. Police are often involved and SCAN teams may assist child protection social workers in co-ordinating an investigation.

The Ministry for Children and Families and police have established a joint province-wide protocol addressing the respective responsibilities of police and social workers in response to reports of abuse and neglect of children. The "Child Family and Community Services and Police Protocol" establishes a reciprocal reporting arrangement between police and social workers, and a framework for conducting joint investigations. The provincial protocol requires local areas to develop procedures that support collaboration between police and protection social workers. Local areas must also develop a protocol to carry out Section 16(3a) of the Act, i.e., reporting the results of a protection investigation to the informant and the parents of the child.

Investigation Standards

Practice Standards for Child Protection is the operational criterion that specifies four response priorities and their associated timeframes for investigating reports of child abuse.

- Priority 1 requires an immediate investigation if the child's health or safety is in danger or the child is particularly vulnerable due to age or developmental level. This includes: reports of the death of a child; severe physical abuse, neglect or failure to thrive; life-threatening medical neglect; an attempted or threatened suicide; severe lack of supervision such that the child's life is imperilled; or when a child under 12 kills or seriously injures someone.
- Priority 2 must be investigated within 24 hours when there is a report of: serious physical abuse; neglect or severe and serious sexual abuse; serious medical neglect; serious lack of supervision; a homeless child; or a lost or vulnerable runaway child.
- Priority 3 requires investigation within five days when there is moderate physical abuse, physical neglect or sexual abuse; moderate medical neglect; serious emotional harm; family violence; or parents refuse (non-medical) treatment for their child.
- Priority 4 requires investigation within five days when there is a likelihood of physical harm (including neglect) or there is likelihood of sexual abuse.

Access to a Child

When the Director or a delegate is denied access to a child who is believed to be in need of protection, the court can authorize access to the child in order to investigate a report or suspicion of abuse or neglect. Under Section 17, the Director can apply to a judge of the court or a justice of the peace in person, by telephone, or other means of communication to obtain a special order when denied access to a child. This special order regarding access can authorize a specific person to enter a specified premises, remove a child to conduct an interview or have a medical examination, or require a person to disclose the location of a child.

If a child is in immediate danger, a police officer or the Director may take charge of the child without a court order, but must attend the court within seven days for a presentation hearing. The removal of a child without an order under Section 30 requires that the parents of the child be notified promptly of the removal and the upcoming presentation hearing. The Director may return a child to the parents before a presentation hearing occurs if:

- a risk reduction plan agreed to by the parents will protect the child;
- the circumstances requiring protection have changed; or
- rather than removing a child, a less disruptive means of protecting the child becomes available.

Mandatory Medical Examinations

If a child is believed to have been sexually abused, the Director ensures that a medical practitioner examines the child as soon as possible. If the parents do not authorize this examination, or any examination for suspected physical harm or for treating a medical condition, the Director may apply to the court for authorization to proceed with an intervention under Section 17 of the *CF&CS Act*. Alternatively, the Director may remove the child under Section 30 and authorize a health care provider to examine or provide treatment. If the Director deems that the child has the capacity to consent to medical treatment, the child can then consent to an examination or treatment.

Risk Assessment/Risk Management

The Ministry implemented a risk assessment model in 1997 that requires the input of a variety of persons, including service providers and physicians, in determining a child's level of risk. The BC Risk Assessment Model is a structured decision-making tool that assists front-line staff in making critical risk decisions regarding the safety and well-being of children. The model is based on extensive research, consultation and examination of other risk assessment models in use throughout North America, notably the New York State model. The BC Risk Assessment Model requires that a reassessment be done at critical times (such as prior to the closing of a case). The Ministry plans in future to require a risk reassessment before a Supervision Order expires.

Provisions Specific to First Nation Peoples

When an investigation involves an Aboriginal child, the Director involves the child's Aboriginal community in the assessment or investigation to the extent specified in any agreement that exists between the Ministry and the child's Aboriginal community. If there is no existing agreement, an Aboriginal community that is willing to support or assist the family can be involved, with the consent of the child's parents.

Departmental Role in Investigation of Third Party Abuse

Section 13(1)(c) of the *CF&CS Act* considers a child to be in need of protection if he or she is being abused or is at risk of being abused by a person other than the parents, and the parents are unable or unwilling to protect that child. The investigation of third party abuse involves a comprehensive assessment of the circumstances of the suspected abuse as well as the parent's capacity and willingness to protect the child.

Investigation of Child Deaths

The Ministry for Children and Families reviews all fatalities of children who have received MCF services. The office of the Director of Child Protection conducts an audit of systemic compliance to child welfare legislation, policy and practice standards and may make recommendations concerning changes in policy, training or practice. The Director's office monitors the implementation of such recommendations. Any fatality of a child who had received services from the Ministry during the preceding year must be reported to the Children's Commission within 24 hours.

The Children's Commission reviews all child deaths in British Columbia and investigates approximately 60 per cent of them. Deaths of all children who are in the care of the government or receiving services from the Ministry for Children and Families are fully reviewed by the Children's Commission to ensure that the Ministry has complied with legislation and policy in protecting and parenting the child while acting as the child's guardian.

The Children's Commission releases all reviews to the public after approval by a consultative committee comprised of representatives from First Nations, the legal, medical and social work professions, the Coroner's office and Child Protection Consultants. The Commission sends any recommendations regarding services that were provided to a deceased child or the child's family to the various ministries and government authorities (such as schools and hospitals) that provided government services. The agencies must then respond to the recommendations within 30 days.

Investigation of Educational Institutions

Investigations involving educational institutions and their staff, including schools and colleges, are conducted in a co-ordinated manner through the following activities:

- the child protection worker assesses the report to decide how to respond and commences an investigation if there is reason to believe that a child may need protection;
- the police conduct an investigation to determine if a criminal offence may have been committed; and
- the superintendent of schools or the senior authority of an educational institution investigates as part of his/her legal responsibilities and is responsible to co-ordinate investigations that occur in a public school.

Child Abuse Register

The Ministry does not keep records on individuals who are known to, or suspected to, have abused children. An electronic record is kept for each child, youth or family who receives services under the *CF&CS Act*.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director and the parents or caregivers (and the child, in some cases) or by an order by the court. The type and level of intervention are dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

Families that are temporarily unable to care for a child in the family home may enter into an agreement with the Director to provide care for the child and to delegate to the Director of Child Protection as much guardianship as is necessary to meet the child's needs. This **Voluntary Care Agreement** must take the child's views and best interests into account while also being the least disruptive intervention alternative, considering the family's circumstances. The Director considers a Voluntary Care Agreement when the family is in a temporary crisis period or when protection concerns are evident and the child's caregivers accept the terms of a Plan of Care to alleviate risk factors. The Agreement must contain provisions that the Director will provide information about the child to his or her parents and that the parents will maintain contact with the child and resume care when the Voluntary Care Agreement has expired. The initial term of an Agreement must not exceed three months if the child is less than five years of age, and six months in any other case. The Agreement can be renewed for a total duration of up to 12 months for children less than five years of age; 18 months for children between five and 12 years of age; and 24 months if the child is 12 years of age or over.

The Director and the parents of a child who requires specialized care outside the family home may enter a **Special Needs Agreement** when in-home supports or other less disruptive measures are unavailable or inadequate. Special needs are verified by a professional assessment of a child's limitations associated with ongoing behavioural, developmental, emotional, physical, mental or other similar conditions. The terms of a Special Needs Agreement are governed by similar statutory guidelines as a Voluntary Care Agreement with the exception of the timing and duration clauses. The initial term of a Special Needs Agreement cannot exceed six months and the agreement can be renewed indefinitely for periods of up to 12 months each.

Court-Ordered Protection

A child who has been removed from his or her home must have his or her case presented in court within a certain time frame, according the type of order requested. During that time a child can be returned home; however, the Director still must report to the court. If the Director wants the child to remain in the care of the Ministry, an **Interim Order** can be recommended pending a formal protection hearing to determine if the child is in need of protection. A protection hearing date must be set within 45 days of the removal of a child.

When the court finds that a child needs protection, one of several court orders can be made to ensure the child's protection. Under a **Supervision Order** the child is placed in the custody of the parents or another person who was a party to the protection hearing. This order is applied only when the safety and well-being of the child can be assured by the custodian who is supported and monitored by the Director for the duration of the Supervision Order. The terms and conditions of a Supervision Order are recommended by the Director, with the agreement of the parents where possible. These terms and conditions can include support services (see Support Services section for descriptions); the right for the Director to visit the child and monitor his or her well-being; or a requirement that the Director remove the child if any terms in the order are breached. The maximum term for a Supervision Order is 12 months.

If the court finds the child to be in need of protection and the child's safety and well-being cannot be ensured under the care of the parents, the court has the option to make a **Temporary Custody Order**. This Order assigns custody of the child to the Director or to a person other than the parent ("another person") who can consent to the care and custody of the child and who the Director believes will provide for the child's safety and well-being. The term "another person" refers to a relative or kin of the child, a person with whom the child has a significant relationship, or a member of the child's cultural, racial, linguistic or religious heritage. The Director may provide financial and other supports for a child under a Temporary Custody Order through agreements with the temporary custodian of the child. Temporary Custody Orders are utilized in cases:

- where there is a likelihood that the child would be able to return home on expiry of the order;
- when the medical or special needs of the child exceed the capacity or the ability of the parents to provide care;
- while the parent is resolving situations that place the child at risk, or;
- when the child fears returning home.

Temporary Custody Orders are time-limited according to the age of the child. Orders for children under the age of five years must not exceed three months; children between five and 12 years of age must not remain more than six months under an Order and children 12 years of age and older are limited to 12-month Orders. The maximum total duration of extended Temporary Care Orders for the age groupings above are 12 months, 18 months and 24 months respectively. The Director may apply for a Supervision Order of up to six months to take effect upon the expiry of a Temporary Care Order to allow monitoring of the home situation when a child returns to his or her parents.

The Director may apply to the court for a **Continuing Custody Order** when a Temporary Custody Order is due to expire and the child's safety and well-being cannot be assured in the parent's care, or if the parents cannot be identified or located. A Continuing Custody Order is sought so as to provide the child with stability and enable long-term planning when it is evident that permanency planning (adoption) is in the child's best interest. An application for this Order must be made no sooner than 30 days before the expiry of a Temporary Custody Order and must include the notification of all eligible parties to the court proceeding.

A Continuing Custody Order effectively makes the Director the sole guardian of the child, and as such he or she can consent to the child's adoption. This Order remains in force until the child reaches the age of 19 years, is adopted, marries, or the Order is cancelled. The court can cancel a Continuing Custody Order if one of the parties to the proceeding in which that order was made can satisfy the court that the parent's or child's circumstances that initiated the order have shifted significantly toward the best interests of the child. The Public Trustee becomes the sole guardian of the estate of the child under a Continuing Custody Order.

A parent or any other person can apply for an **Access Order**, allowing children under a Continuing Custody Order to preserve and maintain stable relationships with significant others. During Access Order hearings the court considers the order application, recommendations by the Director and the child's views on the reasons and terms of the application. The Director may authorize limited financial support to facilitate contact between the child and the access applicant.

If court hearings for custody orders are adjourned, (e.g., for a family conference or mediation) the child remains in the custody of the Director under the terms of the Temporary Custody Order until the matter is decided.

Section 28 of the *CF&CS Act* makes provisions for a **Protective Intervention Order**, which is used to protect a child from another person. This order effectively:

a) prohibits contact and interference or entrance to a premises that the child attends;

b) prohibits residing in or entering the child's residence, including a premises owned or leased by the subject of the order; and

c) orders the subject to enter into a recognizance, report regularly to the court, produce documents, or include any terms necessary to implement the order.

Consent Orders for Temporary Orders, Continuing Custody Orders, Access Orders and Supervision Orders can be made without a hearing when each party agreeing to the Order understands its nature and consequences and has been advised to seek legal counsel. Consent Orders can be made by the court with the written voluntary consent of a child's parents, the child (if over 12 years of age), the Director, "another person", or an entitled Aboriginal party. The Director may apply to dispense with the consent of any party required for a Consent Order under extenuating circumstances defined in Sub-section 60(3) of the *CF&CS Act*. A Consent Order does not require a finding of a child in need of protection, nor does it amount to an admission of abuse or neglect on the part of a parent.

Court Procedures

Child protection proceedings take place in Provincial Court. Parties may appeal orders of the Provincial Court by filing an appeal with the BC Supreme Court within 30 days, beginning on the day after the order is made. With leave, a party can appeal an order made by the Supreme Court to the BC Court of Appeal on a question of law only.

Section 66 of the *CF&CS Act* permits a civil hearing to be conducted as informally as a judge may allow. Civil hearings must be held at a different time or at a different place from the usual time or place for sittings of the court related to criminal matters. No order under the *CF&CS Act* may be set aside because of such informality at the hearing.

Section 67 of the *CF&CS Act* allows the Director to apply for an order excluding a child from a court hearing or for the court to admit hearsay evidence of the child.

The court may also give any other direction for which the Director has applied concerning the receipt of evidence from a child.

Extended Care

Section 12.3 allows for the extension of support and services after the 19th birthday of youth who were in care under an order if they are a) attending an educational or vocational program, b) completing a rehabilitative program, or c) in need of continued support and assistance because of a chronic or terminal medical condition. These youth may enter into an agreement with the Director for terms not exceeding 24 months and not extending beyond their 24th birthday. An eligible youth may enter into an agreement for up to 24 months and can apply for support and services at any time until his or her 24th birthday. The agreement is based on the youth's proposed plan for the use of support and assistance and is reviewed twice per year. The Director may terminate an agreement if the agreed-upon terms and conditions are not met by the youth.

The Independent Living Program provides financial and emotional support to a child 17 years of age and over who is in care under temporary or continuing custody status, while the child lives independently. A specific agreement is made between the Director and the child in care that specifies the child's responsibilities, the social worker's responsibilities and financial needs of the child. This agreement is reviewed at least every six months.

Under **Youth Agreements**, provided through the *CF&CS Act*, one or more services may be provided through a legal agreement signed by the Ministry and a high-risk youth between the ages of 16 and 19. The services are designed to meet an individual's needs for residential, educational or other support services, and/or financial assistance. Parents may be required, if assessed as financially able, to contribute to the support of their child who is under a Youth Agreement with the Ministry.

Support Services

Voluntary Intervention Services

The *CF&CS Act* (Section 93) provides for the delivery of preventive services for youth, families and communities. The Director has the responsibility to establish and maintain preventive services for children and families, some of which are described below. Contracted agencies provide preventive services and various community groups support healthy family development where children may be at risk. Families where children are or may be at risk may access these services voluntarily under agreements made with the Director.

Section 5 of the *CF&CS Act* states: (1) "A director may make a written agreement with a parent to provide, or to assist the parent to purchase, services to support and assist a family to care for a child. (2) The services may include, but are not limited to, the following: (a) services for children and youth; (b) counselling; (c) in-home support; (d) respite care; (e) parenting programs; (f) services to support children who witness family violence. "

A wide range of specialized preventive programs are available to families at risk, including day child care services for teen parents, family conflict mediation, and assistance for street children and youth.

Ministry staff assess requests from children, youth, or families for support services with reference to the level of need, consistency with program objectives and regional budgets for services. The area manager negotiates agreements for the Ministry with non-Ministry service providers, e.g., individuals, agencies or societies who are contracted by the

Ministry to provide services to families. Families enter a **Support Services Agreement** with the Director to access these services for terms that do not exceed six months and are renewable for six-month periods.

Services to children and youth include the following.

1. Child and Youth Care Services, that provide focused, treatment-oriented programming for children and parenting skills teaching in the family home or in the community. These individual or group services focus on child behaviour management and effective parenting skills that reduce family stress and conflict.
2. Non-Residential Services that provide support to children, youth and families who require the facilities of a specialized resource to support placements, maintain stability through crisis periods or prepare a child or youth for mainstream community-based programs.
3. School-based Support Services are offered through a collaboration of the Ministry of Education and the Ministry for Children and Families at the provincial level, with area Directors coordinating programs with school districts and contracting agencies.
4. Respite care is provided by Ministry-approved family caregivers or contracted resources for parents who are experiencing familial stress during periods of crisis or adjustment. The service provides intermittent periods of rest (one or two days per week) from providing necessary care for children.
5. Counselling services address a variety of issues such as anger management, alternate dispute resolution, counselling victims and witnesses of abuse or family violence, and addressing specific family functioning goals.

The Residential Historical Abuse Program (RHAP) is an interministerial-funded program administered by the Ministry of Health. RHAP provides funding for counselling services to people who claim that they were sexually abused in provincially-funded or -operated residential facilities when they were under 19 years of age. Applicants to RHAP are not required to file a police report. Participation in this program does not affect an individual's right to initiate civil or legal action and all information is kept confidential.

The Ministry has responsibility for specialized and multidisciplinary policies and programs related to child and family services in a variety of promotion, prevention and early support initiatives, including various supports to children and families, public health, and school-based services. These programs are implemented and delivered by field staff in the Ministry's regions or through partnership agreements with the Ministry of Health.

Placement Resources

Foster Care

In British Columbia, foster homes are known as "family care homes". Family care homes provide substitute parenting for children who are in the charge, care, custody or guardianship of the Director. The intent of placing children in a family care home is to ensure safety and to return children to their own families, where possible. This goal is most successfully achieved when there is a cooperative partnership between the fostering family, the child's family and Ministry staff.

A Plan of Care is developed for all children within 30 days of coming into care. The Plan of Care is a comprehensive written plan based on an overall goal with detailed descriptions of the child's needs and the services required to meet those needs. The plan is reviewed and approved by the court and must include the views of the child, the parent and their community. Plans of Care are renewed on a regular basis or whenever changes in circumstances occur.

Family care is the out-of-home living arrangement that most closely replicates the preferred environment for a child's upbringing. Generally, a family care home may not have more than six children, including the foster parent's own children. No more than two of the six children may be less than two years of age. Most family care homes offer interim substitute parenting to children while supporting important relationships between the children, their parents and extended families. There are five kinds of family care homes: restricted family care, regular family care, and specialized family care – Levels 1, 2 and 3. Each family care home is the administrative responsibility of the Ministry regional office where the home is located. Provincial standards, policies, procedures and rate structures, however, are established centrally by the Director of Child Protection.

Restricted Family Care

The *CF&CS Act* (Section 8.1 – not yet in force) includes authority for agreements with a child's kin and others. This category of care is called "restricted family care" and is limited to friends or relatives of a child who is in care. A **Restricted Family Care Agreement** may be made with a person who has established a relationship with a child or has a cultural or traditional responsibility towards a child. It also includes someone who is given care of the child by the child's parent. Although this section of the Act is not yet in force, relatives of a child are regularly approved as foster homes. Approval is restricted to the specific child placed in the home and terminates when that child leaves or is discharged from care.

Regular and Specialized Family Care

Regular family care homes are Director-approved and provide care for children of varying ages and needs. Unlike restricted family care homes, the child placed in the home is not normally known by the caregiver. Specialized family care homes provide care in a family setting for children who may present developmental delays or moderately to extremely challenging behaviour. Each of the three levels of specialized family care homes has specific approval, experience and training requirements. Level 2 and 3 homes may also provide specialized assessment and intervention services.

Investigation of Allegations Against Foster Homes

Investigations of allegations of abuse or neglect in foster homes are guided by a protocol signed by the British Columbia Federation of Foster Parent Associations and the Ministry for Children and Families. The protocol applies when the area manager responsible for the foster home determines that a report or allegation of abuse or neglect perpetrated by a foster parent warrants an investigation. The area manager initiates an investigation by assigning a senior child protection social worker with no current involvement with the foster home as the principal investigator. The principal investigator immediately informs the foster family that an investigation is underway and of their right to have a Foster Parent Association representative present as a supportive observer during interviews.

Unless a district supervisor approves a delay, the investigation of a foster home is conducted within five days of the report and concluded within 30 days unless unavoidably delayed for police procedures. At the conclusion of an investigation the principal investigator sends a decision to the foster parents by letter. The original social worker working with the resource and the investigating child protection worker then meet with the foster parents to discuss the decision, explain the outcome and available options to review the decision. Within seven days of receiving the investigation decision, foster parents can request a review of the investigation by the Director of Child Protection.

If a child alleges that he or she has been sexually abused in a foster home, all children in care are removed from the home until an investigation finds that no risk exists in the home. For all other allegations, the removal of children in care from a foster home is determined through a safety assessment in consultation with the Ministry workers involved and the district supervisor.

Residential Services

Specialized residential services include bed subsidy homes, group homes, staffed/specialized residential child care resources, intensive child care resources, receiving, assessment and planning programs and satellite (sub-contracted) home programs. A non-profit society, a private agency or an individual may operate these services under contract with the MCF.

Bed subsidy home services are contracted by the Ministry on an annual or more frequent basis with private individuals or non-profit societies. Bed subsidy homes have the capacity to care for between one and six children. The services are characteristically provided on a 24-hour basis and include only basic care and nurturing. Under exceptional circumstances and when it is clearly in the best interests of a child, a bed subsidy home may be used as a family care home.

Group home services are contracted on an annual or more frequent basis with private individuals (private group homes) or non-profit societies (society-operated group homes). Group homes are based on a structured family model, providing core services that include 24-hour skilled parenting and child care services, group and individual counselling and activities, and programming for individual children that is designed to achieve the specific goals of the child's Plan of Care. In addition to these core services, individual group homes may also offer certain specialized services such as receiving services (when a child first comes into care), longer term care, or respite and relief care. A group home may have the capacity to care for between three and eight children.

Receiving, assessment, and planning programs are primarily residential but may also include outreach services to families and other community agencies involved with the family. Programs are usually located within the local community in order to allow easy access to the child's family and other community resources, as well as immediate response capacity for emergency placements. Services are time-limited and are generally aimed at assisting the Director in formulating a Plan of Care for the child.

Intensive child care resources (ICCRs) provide short-term, intensive and individualized services and programs for children with severe and profound behavioural and/or emotional disorders. Children receiving ICCR services normally require an inter-disciplinary team approach involving the co-operative participation of several community agencies and/or government ministries.

Staffed/specialized residential care programs offer 24-hour care for children whose Plan of Care has been developed and sets specific goals. Services are generally time-limited and are designed to meet the goals established in the individual child's Plan of Care. In some cases, these programs offer community-based, long-term, specialized services for children who require specialized care until adulthood (up to 24 years of age). Services in this category include time-limited residential wilderness/ranch programs.

Satellite home programs offer services that are similar to staffed/residential programs. However, in a satellite home program, the Director provides the contracted caregiver with official authorization (including specific conditions) to sub-contract with other caregivers for the provision of direct services that are received by children placed in the program. This type of residential service is gradually being phased out, with the Ministry placing greater reliance on family care homes for these children.

A Youth Housing Strategy is being developed during year 2000 to establish a housing continuum service model (including the MCF service role) as part of an inter-ministry plan. Currently, the Ministry provides guardianship services, contracted youth shelters, safe houses for youth who move out of the sex trade, and outreach workers for sexually exploited youth.

Investigation of Allegations Against Child Care Facilities

When a report of child abuse or neglect in a licensed or unlicensed child care facility is received by a child protection worker, a medical health officer or the police, the receiving party notifies the other two parties. The ensuing investigations are then conducted in a co-ordinated manner. The child protection social worker assesses the report and investigates to determine if the child may need protection. The police conduct an investigation to determine if a criminal offence may have been committed. The medical health officer (or delegated licensing officer) conducts a licensing investigation.

If child abuse or neglect is believed to have occurred in a youth custody centre or while a child is participating in custody centre activities or on authorized absences, the investigation is co-ordinated between the child protection social worker, the police and the director of the custody centre. The director of the youth custody centre is responsible for coordinating investigations that occur in the centre and for documenting the results of any investigations performed on the instructions of the Director.

Adoptions

Adoptions in British Columbia are governed under the provisions of the *Adoption Act* and its regulations. The Ministry arranges a few infant adoptions and all adoptions of children who are in the custody, care or guardianship of the Director. The remaining adoptions are facilitated by seven licensed adoption agencies or, in the case of relative, step-parent or adult adoptions, proceed directly through the courts.

The Ministry's Adoption Services Branch maintains a registry of all children in care who are under 12 years of age, eligible and registered for adoption. Exceptions to registration are made when repeated attempts to secure an adoptive home for a child have failed, when the child's physical or emotional health is unstable or uncertain, or when Aboriginal children are placed with extended family or Aboriginal communities.

The priorities for placements of adoptable children in care are: 1) with extended family; 2) in homes having previously adopted siblings; and 3) with caregivers having pre-existing significant relationships. Concurrently, the Ministry district office staff registers the child with the provincial Adoption Services Branch and requests a selection of approved home studies to evaluate for compatibility with the child's needs. Aboriginal children can be adopted by non-Aboriginals only when the established exceptions committee approves and a cultural plan is in place to preserve the child's heritage.

Parties to an adoption have a choice in the level of openness or amount of contact between the adopted child and the child's birth family or former caregiver. A semi-open adoption allows for contact without identification between the birth and adoptive parents before or after an **Adoption Order** is granted. A fully disclosed adoption involves the exchange of identifying information and includes various kinds of contact between parties.

An application for an Adoption Order requires consents by all eligible parties, a report on the placement prepared by the Director or the adoption agency and, if the child is between seven and 12 years of age, an authorized report indicating the child's views and understanding of the adoption. When an Adoption Order is made, the adoptive parent assumes the parental rights and obligations formerly held by the birth parent. Any other orders or agreements for access are terminated, unless the court determines that it is in the child's best interest to sustain them.

Ministry Adoptions

When a prospective adoptive home is selected for an eligible child in care, the Director provides the adoptive parents with a pre-placement report containing detailed, non-identifying information on the child's history, professional assessments, reports and all other relevant information. A birth parent who has consented to an adoption may select one of the prospective adoptive homes for his or her child. A probationary pre-adoption placement takes place during which the Director monitors the adoptive home to ensure that the child's needs are being met. A post-placement report is then filed with the court with the recommendation that the adoption be completed or not. The court considers the Director's report and renders a decision to grant an adoption order or withhold it. Ministry adoption services include follow-up support such as counselling, services for children with special needs and access to other Ministry child and family programs.

Ministry adoptions may be supported financially in cases where an adoptive family is eligible and the child is designated for the post adoption assistance program. In some cases a maintenance payment can be made if there is a significant relationship, when a sibling group is being adopted or when the placement is culturally compatible.

In cases where an Aboriginal child has been adopted through customary practices of an Aboriginal Band or community, the court can recognize the adoption under the *Adoption Act*.

Direct Placement Adoptions

Direct placement adoptions involve birth parents and prospective adoptive parent(s) who are known to each other before the adoption takes place. The process for a direct adoption is overseen by the Director of Adoption or a private adoption agency, beginning with a pre-placement assessment and concluding with an Adoption Order. The Director of Adoption or an adoption agency conducts a pre-placement assessment and facilitates information sharing between the two parties upon notification by the prospective adoptive parents of their intent to adopt. The child must then reside with the prospective adoptive parents in a direct placement for at least six months before an application for adoption can be made. While a direct placement is in effect, the adoptive parents and the birth parents become joint guardians of the child until an Adoption Order is made or the placement consents made by the birth parents or the child (if over 12 years of age) are revoked.

Adoptive Families Association of BC

The Adoptive Families Association of British Columbia (AFABC) is a province-wide, non-profit society that offers information, support and assistance to families and individuals involved in the adoption process. In addition, AFABC runs information/ orientation sessions across the province for interested families. The Ministry has developed a three-year business plan with AFABC and the Special Needs Adoptive Parents Association (SNAP). AFABC will increase support, recruit and provide orientation sessions for adoptive parents and SNAP will provide increased post-placement support for adoptive parents of special needs children. A media campaign (television and newspaper) to recruit 200 new adoption homes began in fall 2000. Public response to the free telephone information line is managed by the AFABC.

Inter-country Adoptions

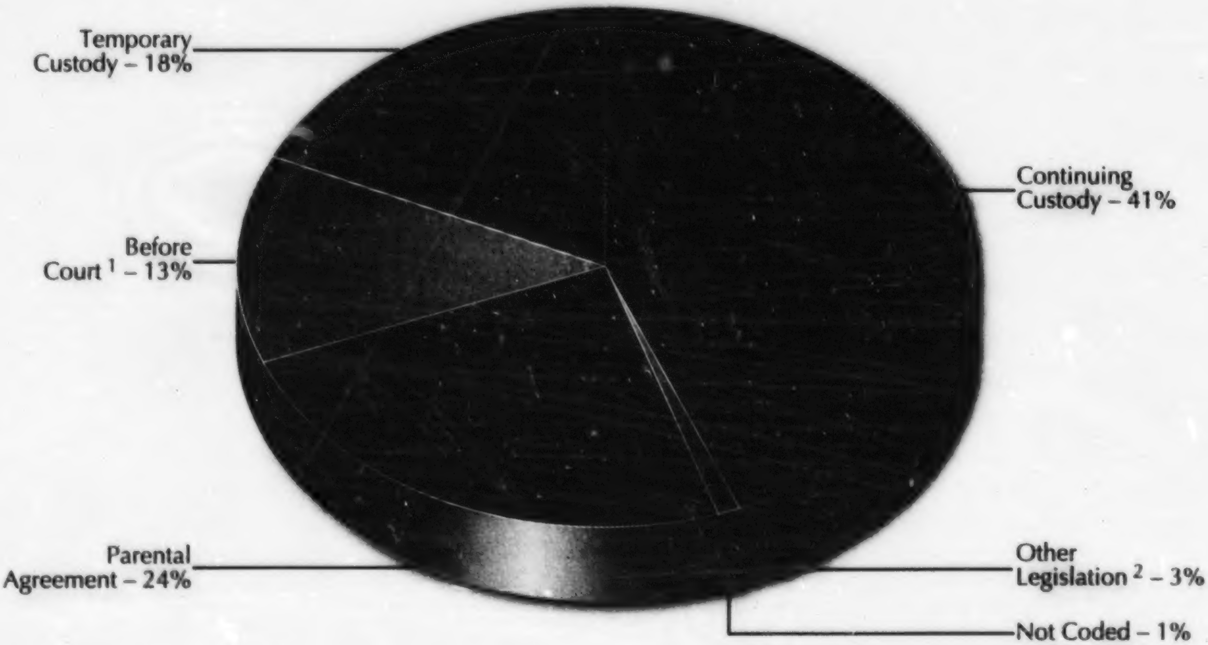
British Columbia is a signatory to the Hague Convention on inter-country adoptions and has designated the Director of Adoption Services as the central authority in BC for processing and approving inter-country adoptions.

Statistics

Due to the limitations noted in the Introduction, British Columbia data should not be compared with data for other jurisdictions.

Figure 10.1

Children in Care by Legal Authority as at March 31, 1999



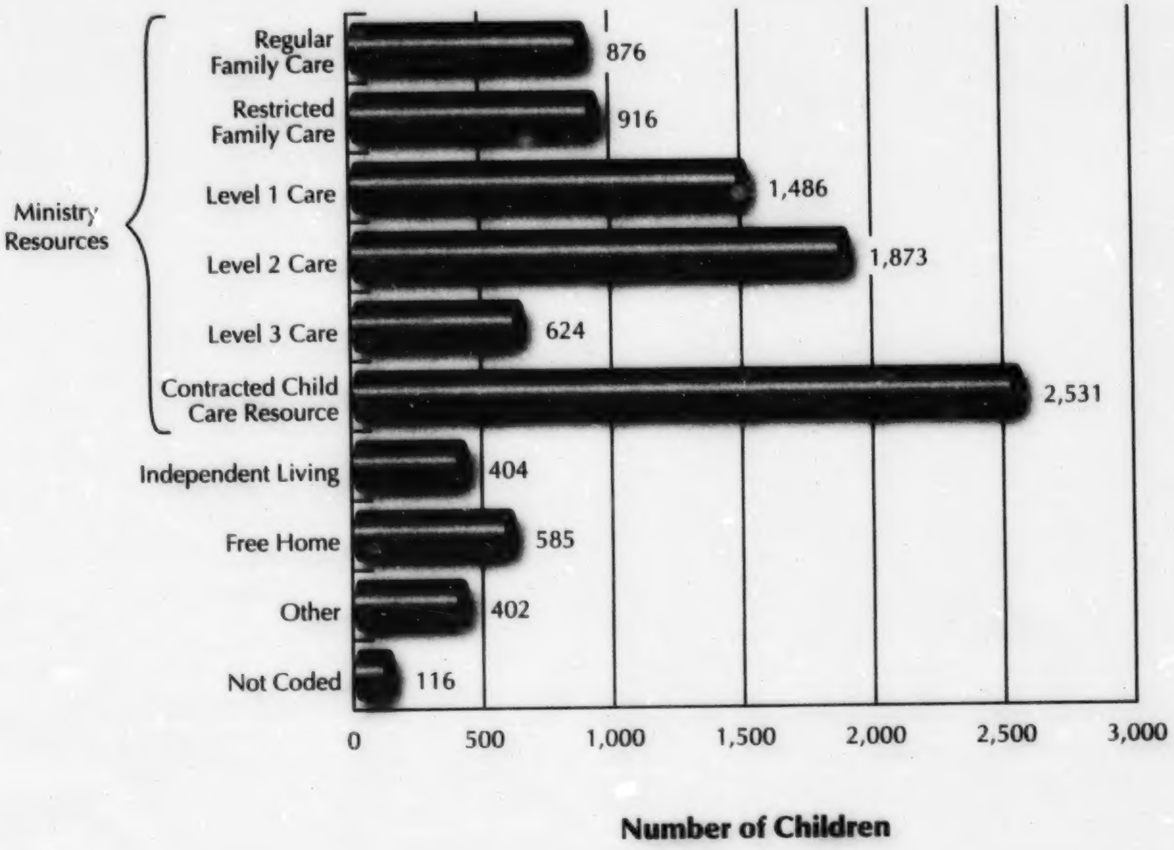
1 Includes removed children and Interim Orders.

2 Includes other province/country, *Adoption Act* and *Family Relations Act*.

Children in care: 9,813

Figure 10.2

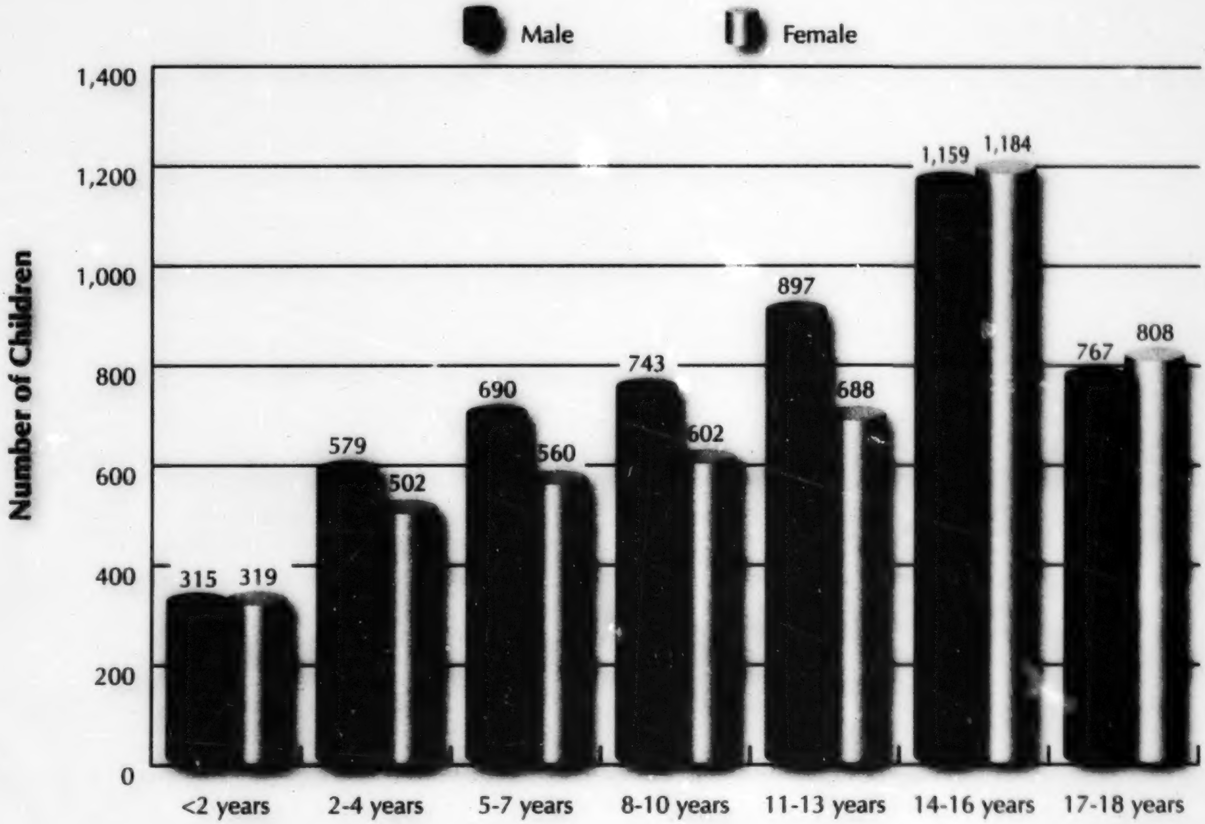
Children in Care by Placement Type as at March 31, 1999



Children in care: 9,813

Figure 10.3

Children in Care by Age Group and Sex as at March 31, 1999



Children in care: 9,813

Resource Material

Legislative Material

BC Benefits (Child Care) Act, R.S.B.C. 1996, c. 26.

BC Benefits (Income Assistance) Act, R.S.B.C. 1996, c. 27.

BC Benefits (Youth Works) Act, R.S.B.C. 1996, c. 28.

Child Youth and Family Advocacy Act, R.S.B.C. 1996, c. 47. c 29.

Children's Commission Act, R.S.B.C. 1997.

Adoption Act, R.S.B.C. 1996, c. 5.

Child, Family and Community Service Act, R.S.B.C. 1996, c. 46.

Correction Act (Youth), R.S.B.C. 1996, c. 74.

Mental Health Act, R.S.B.C. 1996, c. 238.

Offence Act, R.S.B.C. 1996, c. 338.

Secure Care Act, 2000.

Ombudsman Act, R.S.B.C. 1996, c 340.

Young Offender Act, R.S.B.C. 1996, c. 494.

Young Offenders Act, Canada.

Reports

British Columbia Ministry for Children and Families. *Annual Report of the Ministry for Children and Families for 1996-97, 1997-98, 1998-99, 1999-2000.*

The Secure Care Working Group, February–August 1998. Ministry for Children and Families, Child Protection Division, Victoria, BC.

Other

Adoption Newsletter, No. 1., July 1996.

Adoption Newsletter, No. 2., September 1996.

Adoption Newsletter, No. 3., February 1997.

Adoption Newsletter, No. 4., February 1997.

The BC Handbook for Action on Child Abuse and Neglect 1998. Crown Publications, Victoria, BC.

1999 Unofficial Consolidation of the Child, Family and Community Service Act.

Practice Standards for Child Protection. 1998.

Practice Standards for Guardianship: Quick Reference Guide, July 1999.

Guardianship of Children and Youth in Care: A Model. 1999.

Practice Standards for Foster Homes, July 1999.

Protocols for Foster Homes: Quick Reference Guide. 1999.

Practice Standards for Staffed Children's Residential Services, 1999.

Fact Sheet: Youth Agreements (1999).

Ministry for Children and Families (Ministry of Children and Family Development effective June 2001) Web site at: **http://www.mcf.gov.bc.ca**

Pamphlets

British Columbia's New Adoption Act. (1996).

Complaints Process Handbook. September 1997.

When You Disagree: Making a Complaint to the Ministry for Children and Families. Information for Children and Youth. November 1999.

Dealing with Difficulties in Foster Homes: A guide for foster parents.

Health Care Agreements.

Child Protection Investigation (available in English or Cantonese or Mandarin).

The Court Process (available in English, Cantonese or Mandarin).

Fostering Multicultural Children.

Fostering Aboriginal Children.

BC Foster Care Education Program.

Looking After Children – introductory information (1999).

Know Your Rights: Information for Children in Care.

SCAN Teams: Health Assessment and Resources for Children (HARC) Vancouver Island.

11

YUKON

Administration and Service Delivery

Administration

The Department of Health and Social Services is responsible for the development and delivery of the child and family services authorized under Part 3-Adoption, and Part 4-Child Protection of the *Children's Act*.

The Family and Children's Services Branch, located in Whitehorse, is responsible for policy and program development, co-ordination of services and service delivery. Within the Branch, the Family and Children's Services Unit and the Placement and Support Services Unit are responsible for the delivery of services in Whitehorse. The Regional Services Branch of the Department is responsible for providing these same services, plus a wide range of other social services, to rural areas through a network of ten rural offices.

Service Delivery Network

The Director of Child and Family Services is appointed by an Order in Council to ensure that the provisions of the *Children's Act* are carried out, to oversee the operations and programs of any child-caring facility under the Act and to act as the Provincial Director under the *Young Offenders Act* (Canada) for the Yukon. The *Children's Act* also provides for the appointment of departmental workers as agents of the Director delegated to provide child welfare services.The child welfare delivery system in the Yukon is directly operated by the Yukon government with the exception of some group homes, the Child Protection Mediation Service and after hours services. The various programs provide services for children taken into care and custody, and provide specialized counselling, support and specialized assistance to children and their families to encourage the skills of caregivers and strengthen the family unit.

After Hours Services

After hours service in the city of Whitehorse is a contracted service. The after hours service in rural communities outside Whitehorse is provided by local resident social workers, supported by the RCMP.

Human Resources

Hiring qualifications for all child welfare social work staff include a minimum BSW degree (or equivalent) and previous experience in the child welfare field. Social workers and other specialized staff working in child welfare services participate in competency-based training developed by the Institute of Human Services (Portland State University, Oregon). Specialized training on related topics is also provided from time to time.

Children's Advocate

Yukon does not have a children's advocate.

Yukon Ombudsman

The Yukon Ombudsman investigates complaints about all government-operated services, including those of the Department of Health and Social Services.

The Ombudsman reports annually on the affairs of his or her office to the Speaker of the Legislative Assembly. The Ombudsman may also make a special report to the Legislative Assembly or comment publicly on his or her general duties under the *Ombudsman Act* or on a specific case.

First Nations

Agencies

Two non-delegated First Nation social service agencies provide family support services to three First Nations Bands in the Yukon. Kwanlin Dun First Nation and the Kaska Tribal Council collaborate with the Department to deliver services to First Nations Band members.

All Yukon First Nations members receive child welfare services directly from the Department of Health and Social Services. There are currently no bi-lateral or tri-lateral agreements in the Yukon that establish delegated First Nations Child and Family Service agencies.

More than half of Yukon's 15 First Nations have self-government agreements that have been ratified by the First Nation, the Yukon Government and the Government of Canada, then brought into force through Yukon and federal legislation. Self-government agreements between the Territory and First Nations authorize each First Nation to pass its own child welfare laws that apply to its members wherever they live in the Yukon. To date, however, no such First Nations laws have been enacted.

When investigating alleged cases of child abuse involving First Nations children, the Department collaborates in all aspects of the investigation with liaison people who live within the First Nations communities. The Department has entered into child protection protocols with the Ross River Dena Council and the Carmacks Little Salmon First Nation. These protocols guide the joint investigation of child protection matters between the First Nation and the Department of Health and Social Services. Similar guidelines are followed by other First Nations and the Department in daily work with children and families.

With the parents' or guardian's consent, official First Nation representatives are invited to participate in the planning and placement for a First Nations child who is coming into the care of the Director. Selection of an appropriate placement must be consistent with the child's needs and preserve the child's cultural and spiritual identity.

Definitions

Child

Under Section 104 of the *Children's Act*, a **child** is defined as "a person under 18 years of age". The same age limit of 18 applies for adoption purposes.

Child in Need of Protection

Under Sub-section 116(1) of the Children's Act, **a child is in need of protection** when:

"(a) he is abandoned,

(b) he is in the care of a parent or other person who is unable to provide proper or competent care, supervision or control over him,

(c) he is in the care of a parent or other person who is unwilling to provide proper or competent care, supervision or control over him,

(d) he is in probable danger of physical or psychological harm,

(e) the parent or other person in whose care he is neglects or refuses to provide or obtain proper medical care or treatment necessary for his health or well-being or normal development,

(f) he is staying away from his home in circumstances that endanger his safety or well-being,

(g) the parent or other person in whose care he is fails to provide the child with reasonable protection from physical or psychological harm,

(h) the parent or person in whose care he is involves the child in sexual activity,

(i) subject to subsection 2, (reference to use of reasonable or aggressive force) the parent or person in whose care he is beats, cuts, burns or physically abuses him in any other way,

(j) the parent or person in whose care he is deprives the child of reasonable necessities of life or health,

(k) the parent or person in whose custody he is harasses the child with threats to do or procures any other person to do any act referred to in paragraphs (a) to (j), or

(l) the parent or person in whose care he is fails to take reasonable precautions to prevent any other person from doing any act referred to in paragraphs (a) to (j)."

Child Abuse and Neglect

Operational definitions for familial and non-familial physical, sexual and emotional abuse, as well as neglect, are included in the "Interdepartmental Protocol on Teacher/ Principal Guidelines for Identifying and Reporting Child Abuse and Neglect". The guideline definitions for reporting a suspicion of abuse are as follows:

Physical abuse: any act or omission which results in or may potentially result in a non-accidental injury to a child and which exceeds that which could be considered reasonable discipline. It includes, but is not restricted to, physical beating and failure to provide reasonable protection for a child from physical harm.

Sexual abuse: any sexual activity involving a child that could be a violation of the *Criminal Code*, the *Young Offenders Act*, or render a child in need of protection under the *Children's Act*. Sexual abuse may include intercourse, molestation, fondling, exhibitionism, sexual assault, harassment, and exploitation of a child for the purpose of pornography or prostitution.

Emotional abuse: acts or omissions on the part of a parent or caregiver that result in, or may potentially result in, psychological harm to the child. The results of emotional abuse may include non-organic failure to thrive, developmental retardation, serious anxiety, depression or withdrawal, and serious behavioural disturbances.

Neglect: the failure of those responsible for the care of a child to provide proper or competent care, supervision or control resulting in failure to meet the physical, emotional or medical needs of the child to the extent that the child's health, development or safety is endangered.

Legislated Rights of Children

Under the *Children's Act*, a child is accorded the following rights: the right to apply to vary or end a custody order; the right to be informed of any protection investigation involving him or her and to be given reasons if he/she is deemed able to understand; and the right for the child's official guardian to determine if the child needs a lawyer at the public's expense. In proceedings under the *Children's Act*, the Official Guardian may determine whether any child requires separate representation by a lawyer or any other person. The Official Guardian may act on behalf of the child or appoint a representative who is paid at public expense. In addition, the Act states that a child has a right to be in a family.

Child Abuse/Neglect Protocols

The "Inter-Agency Protocol for the Investigation of Child Abuse and Neglect" is a joint effort between Yukon Health and Social Services, Yukon Justice, Yukon Education, Justice Canada, and the RCMP. The protocol establishes guidelines for responding to an initial report of child abuse/neglect; interviewing the child; audio/videotaping of interviews; arranging medical examinations of the victim; interviewing the alleged offender; providing support for the child; determining child welfare proceedings; and determining criminal proceedings.

An "Interdepartmental Protocol on Teacher/Principal Guidelines for Identifying and Reporting Child Abuse and Neglect" is co-signed by the Department of Education and the Department of Health and Social Services. The protocol describes reporting procedures and responsibilities for teachers and principals and outlines indicators of a child's possible need for protection.

Protocols that are specific to the investigation and reporting of child abuse are described in the corresponding sections that follow.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Under Sub-section 115(1) of the *Children's Act*, a person who has reasonable grounds to believe that a child may be in need of protection may report that information to the Director, an agent of the Director, or a peace officer. Unless the report is made maliciously or falsely, no legal action may be taken against a person who reports this information.

A teacher with reasonable grounds to believe that a child is in need of protection is required under the Yukon *Education Act* to report suspicions immediately to the principal of the school and to the Department of Health and Social Services. Where a disclosure of child abuse or neglect is received by school personnel, the Department must be contacted without first contacting the parent or guardian. Principals must immediately report suspicions to Health and Social Services and to the Director or Superintendent of Schools. Day care workers are required under the *Child Care Act* to report all suspicions of child abuse or neglect to the Director of Family and Children's Services, or to the police.

A number of personnel policies and interagency protocols also require the reporting of suspected child abuse and neglect. The Department of Health and Social Services requires all staff to report suspected child abuse, where such information is obtained in the course of the person's employment. All non-profit agencies in the Yukon that provide social services to children and families have negotiated a protocol requiring their staff to report suspected child abuse and neglect to the Director.

Penalties for False or Malicious Reports

False or malicious reporting made to a police officer, the Director or delegate, or to any other person may result in a fine of up to $5,000, imprisonment for up to six months, or both.

Investigation of Allegation of Abuse or Neglect

Who Investigates

All reports of alleged child abuse or neglect are received either by a specialized intake worker in Whitehorse or by the social workers or social services workers in rural offices. All calls are screened for urgency or risk. A social worker or a peace officer must investigate all reports that a child may be in need of protection within 24 hours of receiving the report.

Warrants

The person investigating a report of alleged child abuse may enter any premises and request any documents or material relevant to the investigation. If access is denied, the person investigating may apply to a judge for a warrant to enter a premises, or for an order to produce documents if a child is believed to be in need of protection. Although a warrant is generally required, a child may be taken into care, (i.e., apprehended) or taken to a "place of safety" without a warrant if there are reasonable and probable grounds to believe the child's life, safety or health are in immediate danger.

When a child is taken to a place of safety, a concerned parent or other person entitled to the child's care and custody may retrieve the child without taking proceedings before a judge. A child can be kept at a place of safety for a maximum of seven days, after which the child is taken into care.

Mandatory Medical Examinations

In cases of alleged familial or extra-familial child sexual or physical abuse, an immediate medical examination is arranged by the RCMP officer or the social worker. In cases of less serious physical abuse or neglect, or when the alleged abuse occurred several weeks prior to the report, the Department requires that a medical examination be carried out as soon as possible. If parental consent for the examination is not secured, the social worker must apprehend the child before proceeding.

Risk Assessment/Risk Management

The Department uses no formal risk assessment instrument; however, all cases are screened for risk level using the approach taught in the competency-based training model of the Institute of Human Services.

There are no interagency child abuse teams operating in the Yukon at this time.

Departmental Role in Investigation of Third Party Abuse

When investigating alleged extra-familial abuse, the lead role is taken by the RCMP, and the Department provides support. Where it is determined that the parent can provide for the safety and well-being of the child, the investigative role of the social worker normally ends. If the parent requests ongoing support and assistance (i.e., information and co-ordination services during criminal proceedings and/or counselling services) the Department social worker will continue involvement with the family.

Investigation of Child Deaths

The RCMP assists the Chief Coroner and the Territory's lay coroners in child death investigations. The RCMP is notified of all child deaths. Yukon does not have a multidisciplinary child death review body; autopsies for suspicious deaths are performed in Vancouver, British Columbia by a forensic pathologist. Departmental policies and procedures govern investigations where a child in care has died.

Child Abuse Register

Yukon does not operate a child abuse register.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either an agreement involving the Director, the parents or caregivers (and the child, in some cases), or by an order by the court. The type and level of intervention is dependent on the characteristics and severity of the situation and each case is evaluated individually.

Voluntary Agreements

The provision of support services to a child and the family in the home is least intrusive, and is the preferred form of intervention. If services cannot be provided to the child and family while the child remains in the home, a parent or guardian may enter into a **Temporary Care and Custody Agreement** with the Director, placing a child under the Director's temporary care and custody. This agreement may be used when the parent or guardian is unable to care for the child temporarily or the child has special needs that cannot be met in the family home. The duration of a Temporary Care and Custody Agreement can be up to one year, and can be renewed for one additional year.

Temporary Care and Custody Agreements are generally not used for cases of abuse or neglect. However, there is some discretion delegated to social workers, and where there is not a high risk, agreements have been used to facilitate treatment for parents and enable alternative care arrangements.

Court-Ordered Protection

If a child is not at an immediate risk of abuse or neglect, but the Department has protection concerns, a worker may serve the child's parent or guardian with a Notice to Bring as an alternative to apprehending the child and bringing the child into care. This option is used most often in situations of suspected chronic neglect. A Notice to Bring requires that the parent or guardian and the child appear before a judge who will (a) rule whether the child is in need of protection or (b) order that the child undergo medical tests. Where concerns are substantiated by the test results, the child is either taken into care (if at immediate risk) or a protection hearing is scheduled.

When an abused or neglected child is believed to be in need of protection and is taken into care, an application is made to the court for an order regarding the care of the child. A justice of the peace or a Territorial Court Judge may issue one of the following orders when a child is found to be in need of protection.

A **Supervision Order** allows the Director of Family and Children's Services, or a delegate, to supervise the child while he or she remains in the parent's care and custody. The maximum term of a Supervision Order varies depending on the age of the child: 12 months for a child under two years of age, 15 months for a child under four, and 24 months in any other case. An Order can be extended only to the maximum duration that applies to the child at the time the Order is made.

An **Order for Temporary Care and Custody** temporarily transfers care and custody of the child to the Director of Family and Children's Services for between 12 to 24 months, depending on the age of the child. The Order may be extended for an additional two years for children 14 years of age or older.

An **Order for Permanent Care and Custody** permanently transfers the care and custody of the child to the Director of Family and Children's Services until the child is 18 years of age, or to age 19 if the child is attending school full-time or has a physical or mental incapacity and is unable to be self-supporting. In cases where a family's circumstances have changed, the parent or a child over the age of 14 may apply to the court to have an Order terminated or varied.

Appeals

An appeal to terminate a Temporary Order may be applied for by anyone entitled to the care and custody of the child before the Order was made. A child who is the subject of the Order and over 14 years of age may also apply to terminate or vary a Temporary

Order. Ten days notice of an application must be provided to any concerned parent, the Director or other person entitled to care and custody of the child.

A Permanent Care and Custody Order may be appealed or varied unless the child is residing in a home for the purposes of adoption. An application may be made only after 30 days have passed since the Order was given and with ten days notice. An application to appeal or vary an Order may be made by a parent or other person entitled to care and custody. A Permanent Care and Custody Order can be appealed by a child who is the subject of an Order and who can safely return to the person who had care and custody prior to the Order.

Extended Care

Under Sub-section 137(1) the Director may extend care and custody to age 19. All children in the care and custody of the Director have their cases reviewed in consideration of extending services to age 19. The case review conference occurs prior to the child's seventeenth birthday in order to have a plan in place before the child's eighteenth birthday. Grounds for an extension of care and custody exist when a child is unable to be self-supporting because of a mental or physical disability, or when a child is pursuing an educational program and requires financial support.

Support Services

Voluntary Intervention Services

The Department operates the Child Abuse Treatment Service for children who are victims of child abuse and/or who witness family violence; the program also supports the non-offending parent. The Child Development Centre serves special needs children from birth to six years of age; this program is fully funded by the Department. In March of 1999, the Government of Yukon implemented the early intervention program "Healthy Families" to improve long-term outcomes for Yukon children. Healthy Families is modeled after the successful "Healthy Start" program in Hawaii. The program is a culturally appropriate, intensive home-based family support service offered to parents from the time of pregnancy to three months following the birth of the child. Healthy Families is designed to take advantage of the follow-up home visit for newborns provided by public health nurses. The nurses use a screening and assessment process to identify families as "overburdened" (previously referred to as "at risk") and in need of intensive home support. The service is voluntary and can also be offered on a long-term basis (for up to three and five years) for parents who are assessed to be overburdened.

Child protection respite care is a preventive service provided to parents who are experiencing a period of stress or a crisis. The service assists families where identified protection concerns exist and the family does not have the resources to obtain respite care independently. Respite can be provided in the family home or by placing the child(ren) in a respite home. The parents are fully involved in the selection of these options and contribute to the cost where applicable, based on income testing. Funds for in-home respite or authorization for placement in a respite home are secured through formal agreements between the parties and the Department; agreements are limited to three month periods. Respite care agreements are made without court processes.

An **Intermittent Special Care and Custody Agreement** is used when the Department is involved in the selection and ongoing provision of respite care services to a family. This agreement is part of an ongoing case plan for the prevention of a recurrence of protection issues in the family. The child is taken into the care and custody of the Director during each respite period (maximum three-month duration).

Placement Resources

Foster Care

The Placement and Support Services Unit of the Department of Health and Social Services is responsible for the recruitment of foster homes, the placement of children in foster homes and the provision of financial support and counselling/support services to foster parents in Whitehorse. Regional offices develop their own foster care capacity using the central office for consultation and support services.

The Department approves all new foster homes using a screening process and a home study. This involves exploring three personal and/or community reference checks, a medical reference, a public health nurse reference, an RCMP criminal record check and an inquiry of the Child Protective Services files for all family members who are over 18 years of age.

Written Case Plans are prepared for all children in care and are reviewed every six months for children in temporary care and annually for children in the permanent care of the Director.

All approved foster homes must be monitored every six months, whether or not a child in care is in the home. An annual review to ensure compliance with the Foster Care Standards includes at least one home visit, completion of a health and safety checklist and discussions with all workers who have placed children in the home.

Orientation and training for foster care is the responsibility of the Placement and Support Services Unit in Whitehorse and of the workers in the Regional Offices. Potential and approved foster parents are encouraged to attend orientation group training sessions in Whitehorse. At least one foster parent from each foster home must complete a minimum of two hours of orientation and training prior to accepting their first foster child. Further essential training must be completed when it is identified as a requirement by the Department and/or by a foster parent review/evaluation.

All foster homes are limited to having four children in care at any time, unless all the children are siblings. No foster home may care for more than two infants under the age of 18 months (including the parent's biological children). All foster homes may provide short- or long-term care. The four types of foster care currently in use in the Yukon are summarized below.

Regular Foster Home

These homes are recruited from within the community and foster parents receive the prevailing basic maintenance payment for each child in their care. Foster parents in these homes generally specify their preference for the sex and age of children they foster.

Relative Home

A relative foster home is approved to care only for children in the Director's care and custody who are related to the foster parent(s). Relative foster home parents receive the basic maintenance payment for each child in their care.

Restricted Foster Home

This type of foster home is approved for the placement of one specific child only, usually a relative or a neighbour. A restricted foster home is usually used when no approved foster home is available and placing the child in the restricted foster home is in the child's best interest. This home may be used only for the specific child placed, for a specific time period.

Special Rate Foster Home

This type of home is intended to provide additional care and services to a child with physical, mental or emotional special needs. The home receives a negotiated special rate over and above the regular maintenance rate for providing specific services to a particular child.

Boarding Home

Boarding homes are intended to provide a safe residential setting and adequate food and lodging for teenagers in care. Boarding home operators are not expected to provide the same level of care and supervision as foster parents. Boarding home rates vary according to circumstances, but do not exceed the basic foster care rate.

The Association of Yukon Foster Parents

The Association of Yukon Foster Parents was established in the fall of 1989 and became a registered non-profit society in October 1990. The Association provides monthly support and information meetings for foster parents and policy advice to the Department.

Investigation of Allegations Against Foster Homes

Any reports of abuse in a foster home are investigated by a child protection worker according to standard departmental procedures. Support to the foster home is provided by the foster family support worker.

Group Care

The Department of Health and Social Services contracts three group homes and directly operates two group homes in Whitehorse to provide residential and treatment services to children in care.

Adoptions

Adoptions in Yukon are governed by Part 3 of the *Children's Act*. A Director's Report is required for any adoption of a child for which a petition has been filed with the Yukon Supreme Court. All adoptions are finalized through an **Adoption Order** made by a judge of the Supreme Court of the Yukon Territory.

Agency adoptions are the responsibility of the Department. Children who are in the permanent care and custody of the Director and are available for adoption have their cases reviewed in a conference where a plan is developed and a worker is assigned to manage the adoption process.

In private adoptions, the Director must be notified by the person arranging the adoption (usually a doctor or a lawyer) within 30 days of a pre-adoption placement. The child must then reside with the prospective adoptive parents for at least six months before an application for an Adoption Order can be made. The Department oversees the private adoption process to ensure that it meets the same standards and requirements as an agency adoption. The written consent of the birth parents is required for the private adoption of a child who is under the age of majority.

Subsidies can be made available to parents who adopt a child who has been in the care of the Director, if the family has insufficient income to meet the needs of the child.

International Adoption

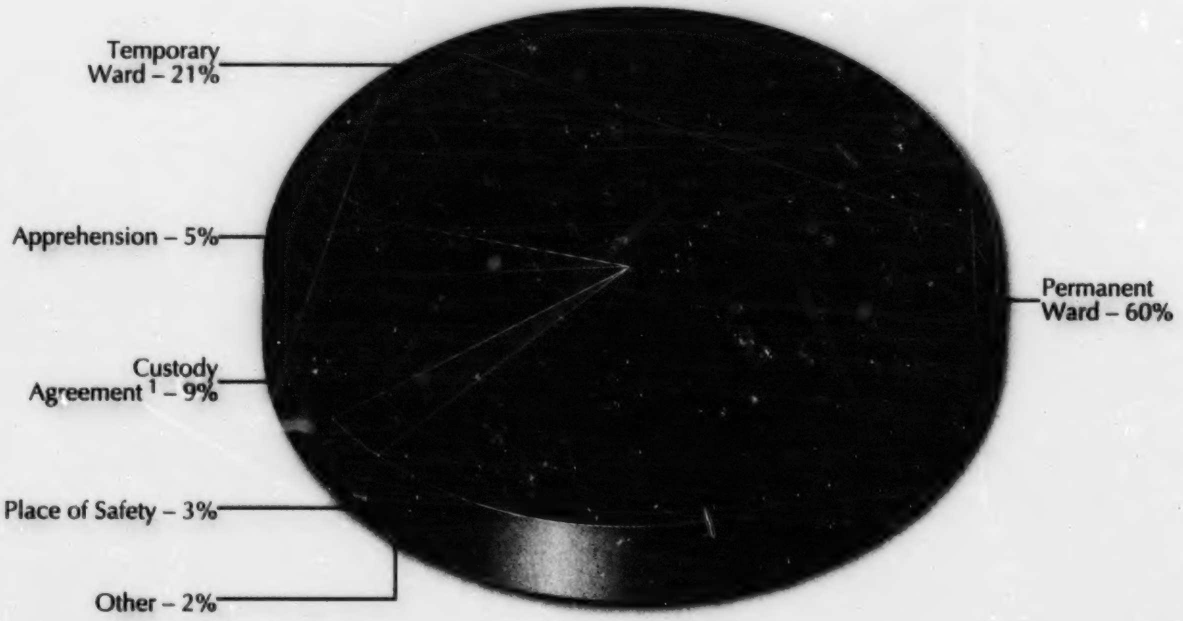
The *Intercountry Adoption (Hague Convention) Act* identifies the Director of Family and Children's Services as the central authority for the Yukon for the purposes of the Hague Convention on International Adoption.

Statistics

Due to the Limitations noted in the Introduction, Yukon data should not be compared with data for other jurisdictions.

Figure 11.1

Children in Care by Legal Status as at March 31, 1999

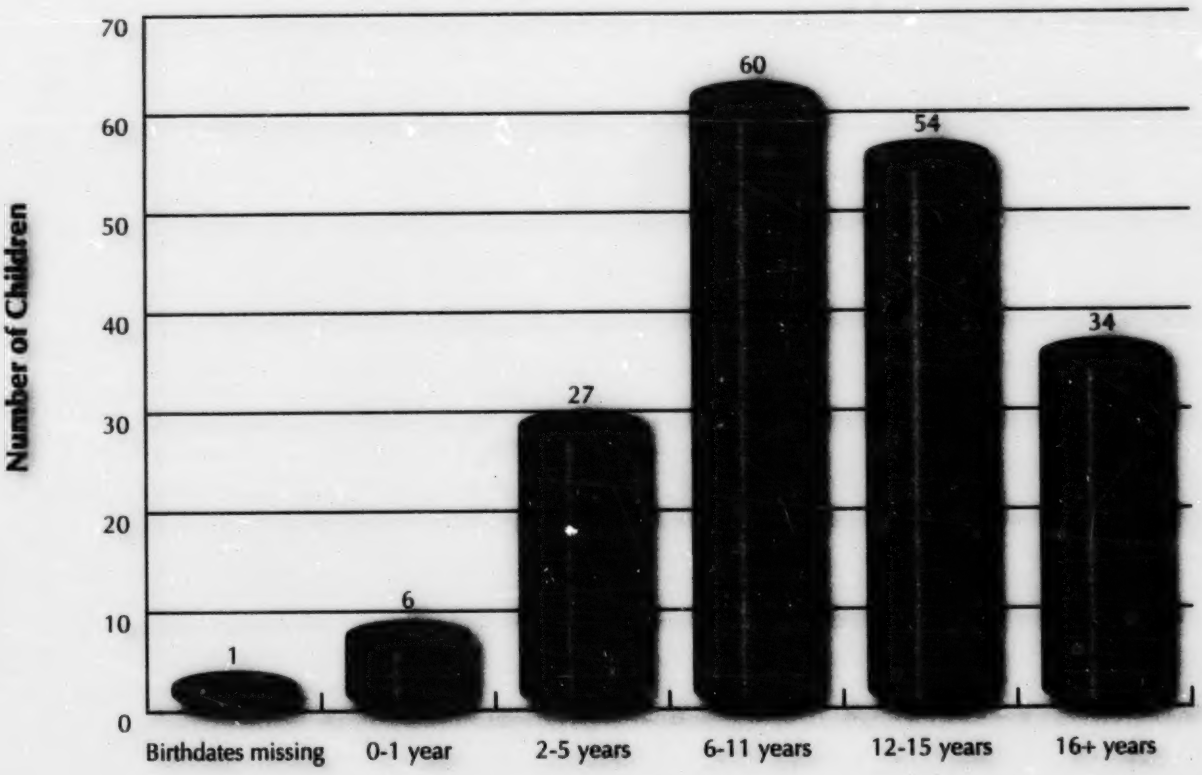


1 Includes Agreements for Voluntary Relinquishment.

Children in care: 182

Figure 11.2

Children in Care by Age Group as at March 31, 1999



Children in care: 182

Resource Material

Legislative Material

Children's Act, S.Y. 1986, c. 22.

Education Act, S.Y. 1989-90, c. 25.

Child Care Act, S.Y. 1989-90, c. 24.

Intercountry Adoption (Hague Convention) Act S.Y. 1997, c. 24.

Access to Information and Protection of Privacy Act, S.Y. 1995, c. 1.

Ombudsman's Act, S.Y. 1995, s. 17.

Other

Department of Health and Social Services Web site: **http://www.hss.gov.yk.ca/**

12 NORTHWEST TERRITORIES

Administration and Service Delivery

Administration

The *Child and Family Services Act (CFSA)* is the legislative authority for the provision of child protection and prevention services in the Northwest Territories. The *CFSA* directs the Minister of Health and Social Services to appoint the Director of Child and Family Services, who in turn delegates the powers and responsibilities contained in the Act to Child Protection Workers. The *CFSA* specifies the types of interventions that a Child Protection Worker (CPW) is authorized to provide, defining the worker's authority to prevent the emergence of child protection concerns. The paramount objective of the *CFSA* is to promote the best interests, protection, and well-being of the child, recognizing that differing cultural values and practices must be respected.

The Department of Health and Social Services offers a broad range of programs and services through the auspices of nine regional and community boards. The Department takes a community-based approach to service delivery wherein regional and community boards plan, manage, and deliver services to support families and protect children.

Service Delivery Network

The Minister appoints the Director of Child and Family Services to perform the duties imposed by the *CFSA* and ensure that regulations of other pertinent acts are followed. Only the Director of Child and Family Services can appoint an Assistant Director or delegate powers and responsibilities under the Act. Any statutory duties and responsibilities are delegated in writing and identify the specific communities involved. The Director of Child and Family Services appoints employees of the Department or employees of an authorized community corporation or body as Child Protection Workers (CPWs) to fulfil the responsibilities contained in the *CFSA*. CPWs must receive a Child Protection Worker Appointment to be authorized to carry out delegated duties and be protected against liability.

After Hours

All CPWs have the responsibility of providing after-hour services. In the busier communities, after-hour services are assigned to CPWs on a rotational basis. In smaller communities after-hour services become the responsibility of the CPW who is available at the time of need.

Human Resources

Each of the nine Health and Social Services Boards determines minimum hiring requirements, although most recent hirees have a Bachelor of Social Work degree. All child protection workers in the NWT must receive a "Statutory Appointment" from the Director of Child and Family Services. Newly hired workers have limited responsibilities until the Statutory Appointment is conferred. In order to be eligible for the appointment, applicants must successfully complete an eight-day mandatory training program (which includes a written exercise). Each health and social services board determines and plans any in-service training that may be required, although the Department of Health and Social Services is considering mandatory competency-based training as well as training in the Looking After Children model.

Children's Advocate

The Northwest Territories does not have a children's advocate.

Aboriginal Peoples

Legislation

The CFSA contains provisions to establish Community Agreements that allow the Minister of Health and Social Services to delegate authority under the Act to persons and groups external to the Department of Health and Social Services. The Community Agreements allow for a not-for-profit corporate body of an Aboriginal organization to enter agreements with the Minister allowing for the delegation of powers under the *CFSA* to the corporate body. Sections 56 to 59 of the Act set out the framework and process by which a Community Agreement is achieved, the attendant powers, and the responsibilities. A Community Agreement must:

- delegate the authority and responsibility to the corporate body for any matter set out in the *CFSA;*
- specify the community(ies) in which the corporate body may act;
- specify the Aboriginal children for whom the corporate body may act;
- establish a Child and Family Services Committee and define its role; and
- establish terms of office and procedures by which the Committee exercises it powers and duties under the *CFSA*.

The Child and Family Services Committee (CFS Committee) is a committee of the Board of Directors of the Aboriginal organization's corporate body, with its members appointed by the Board in accordance with the terms set out in the Community Agreement. The Director may authorize the delegation of some or all powers and duties under the *CFSA* to the chairperson of the CFS Committee to exercise within the community(ies) defined in the Community Agreement. The CFS Committee chairperson remains subject to the direction of the Director in exercising powers and duties under the Act.

A Community Agreement also allows a corporate body to establish standards for their community that are used in determining the level of care required to meet a child's needs, and whether or not a child needs protection. These standards must be communicated to all members of the community.

No Community Agreements have been signed as of September 2000. The enabling statute *(CFSA)* has been in place for less than two years and implementation strategies are currently being developed.

The *CFSA* (Section 91) legislates that applicable Aboriginal organizations, as identified in the Regulations, must be informed whenever a member, or someone who is eligible to become a member, of the organization is a party to a child protection case proceeding to court. This creates an opportunity for the organization to provide input, particularly on the customs and traditions unique to the Aboriginal organization that are important to consider in the development of a case plan for the child or family.

Definitions

Child

Section 1 of the *CFSA* defines a **child** as "a person who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years, and a person in respect of whom an order has been made under Section 43(7) (temporary custody) or 48(2) (permanent custody)."

According to Section 1 of the *Adoption Act*, a **child** means a person who has not attained the age of majority (19 years of age).

Child in Need of Protection

Section 7(3) of the *CFSA* states that "**a child is in need of protection** where:

(a) the child has suffered physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;

(b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;

(c) the child has been sexually molested or sexually exploited by the child's parent or by another person where the child's parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the child;

(d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child's parent or by another person where the child's parent knows or should know of the possibility of sexual molestation or sexual exploitation and is unwilling or unable to protect the child;

(e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm;

(f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e) and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm;

(g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition;

(h) the child's health or emotional or mental well-being has been harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child;

(i) there is a substantial risk that the child's health or emotional or mental well-being will be harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child;

(j) the child requires medical treatment to cure, prevent or alleviate serious physical harm or serious suffering and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the treatment;

(k) the child suffers from malnutrition of a degree that, if not immediately remedied, could seriously impair the child's growth or development or result in permanent injury or death;

(l) the child has been abandoned by the child's parent without the child's parent having made adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;

(m) the child's parents have died without making adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;

(n) the child's parent is unavailable or unable or unwilling to properly care for the child and the child's extended family has not made adequate provision for the child's care; or

(o) the child is less than 12 years of age and has killed or seriously injured another person or has persisted in injuring others or causing damage to the property of others, and services, treatment or healing processes are necessary to prevent recurrence and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the services, treatment or healing processes."

Child Abuse

The *CFSA* (Section 1) defines **abuse** as "neglect or emotional, psychological, physical or sexual abuse".

Legislated Rights of Children

As legislated in the *CFSA*, children 12 years or older must be given the opportunity to participate in all decisions that will affect them.

Child Abuse/Neglect Protocols

The Department of Health and Social Services is presently working with the RCMP, Justice Canada and the Department of Education to revise the existing Child Abuse Protocol, to ensure that it reflects the systemic changes that occurred with the coming into force of the *CFSA* (in force October 30, 1998).

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 8(1) of the *CFSA* stipulates that anyone who has information or who believes that a child is in need of protection must report this information to a CPW without delay. If a CPW is not available, the report should be made to a RCMP officer or another authorized person. Any privileged information that may exist between a solicitor and the solicitor's client is exempted from reporting obligations.

Penalties For Not Reporting

Anyone who fails to report is guilty of an offence and is liable on a summary conviction to a fine not exceeding $5,000, to imprisonment for a term not exceeding six months, or to both.

Investigation of Allegation of Abuse or Neglect

Who Investigates

A CPW must assess, and if needed, investigate, all reports or referrals of a child in need of protection within 24 hours of learning of the concern. The RCMP are notified where it appears that physical or sexual abuse may have occurred.

When a referral or a report is received verbally or in writing, the CPW immediately completes a screening report and a record check to ascertain if there have been prior reports or allegations regarding the child or family. The CPW determines whether to proceed with an investigation using the Criteria to Assist guidelines, in consultation with the supervisor.

If a child is apprehended, the CPW then has 72 hours to determine if the child is in need of protection. This investigation may be extended for up to 30 days if the CPW is undecided about the child's need for protection and has consulted the supervisor. Investigations are not continued beyond 30 days if no substantial evidence is discovered indicating the child's safety or development may be in danger. When the investigation ends, the CPW may close the file, offer voluntary services, or initiate court proceedings to find the child in need of protection.

Apprehensions (Warrants)

Section 10 (1 & 2) of the *CFSA* specifies that a peace officer, authorized person, or a CPW may apprehend a child when, by either personal investigation or referral, that individual has reasonable grounds to believe that a child is in need of protection and that his or her health or safety may be in danger. Section 33 of the Act states: "A person who is authorized to apprehend a child may, without a warrant, enter a place by day or night, using force if necessary to effect entry, to apprehend the child."

Mandatory Medical Examinations

Under Section 31 and 32 of the Act, if there is an immediate need for medical attention, as defined in Sub-section 7(3)(j) (see definition section "Child in need of protection"), the Director apprehends the child and authorizes a CPW to bring him or her to a nurse or a doctor.

Risk Assessment/Risk Management

CPWs complete a Safety Assessment form to help determine whether a child is at immediate risk during or upon completion of the initial interview. According to the Apprehension Guidelines, if the child is in immediate risk, the Supervisor must be notified and the child apprehended. If the child is not at immediate risk, the CPW decides if there has been physical, sexual, emotional abuse or neglect, or if there is a great possibility that abuse will occur if services are not provided.

Departmental Role in Investigation of Third Party Abuse

The departmental role in the investigation of third party or extra-familial abuse is the same as for other abuse investigations.

Investigation of Child Deaths

The Northwest Territories uses a system of lay coroners to investigate child deaths reported to the Chief Coroner. The service is linked with the Office of the Chief Medical Examiner in Alberta for technical support. The *Chief Coroner's Act* defines reportable cases as sudden and unexpected deaths; deaths by fatal disease are not reportable. The police and hospitals (or Nursing Stations) notify the Chief Coroner, who then reviews the death with a multi-disciplinary Childhood

Fatality Review Committee that meets every two months. The NWT Department of Health and Social Services Consultant on Child Abuse Prevention attends the committee on behalf of the Director. The majority of children under the age of 16 years whose deaths are reviewed have been autopsied. In concluding a review of a death, the Coroner issues a Coroner's Report. If a more exhaustive report is needed, a Judgement of Inquiry takes place and the report and recommendations are made public.

Child Abuse Register

The Northwest Territories does not have a child abuse register.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either a voluntary agreement or a Plan of Care involving the Director, the parents or caregivers (and the child, in some cases); or by an order by the court. There are two options for resolving issues once it is believed that a child is "in need of protection". Families may voluntarily partake in a Plan of Care Committee process or, alternatively, settle the matter in court. Families needing preventive services where there is no current child protection concern may enter into a voluntary agreement with the Health and Social Services Board.

Voluntary Support Agreements

Voluntary Support Agreements (VSA) ensure that families needing preventive services have the least disruptive services available to them for maintaining their family unit, and allows a child 12 years and older to be involved in the development and implementation of the VSA. Parents who enter into a VSA retain their responsibility to support their children at least to the age of 19 years. The parents' contribution, financial or otherwise, is determined prior to entering into a VSA. A VSA can also provide for the short-term care and custody by the Director of a child surrendered by parents for adoption until the parental consent for adoption is signed by the parent(s). A VSA cannot be entered into for a period exceeding six months, but can be renewed every six months until the child's 16th birthday, if it is in the best interests of the child.

The *CFSA* allows for youth 16 to 19 years to receive support services when requested and needed. These youth enter into a **Support Services Agreement** (SSA) for a period not exceeding six months. The youth must be in agreement with the plan, and it can be renewed until the youth reaches the age of majority.

The VSA and SSA cannot be used as an alternative to a Plan of Care or court processes. A VSA or SSA can only be used when a child and her/his family require services, and the child is not believed to be in need of protection.

Plan of Care Agreements

A **Plan of Care Agreement** is an expedient alternative to court procedures and is offered by the CPW to the family of a child who is believed to be in need of protection. A Plan of Care comes into effect when the Plan of Care Committee signs the Agreement for the child and/or family. The CPW convenes a Plan of Care Committee that includes person(s) with lawful custody of the child, the child if 12 years of age or older, the CPW, and a member of the Child and Family Services Committee (if one exists in the community). The child, if aged 12 years or older, is invited to become a member of the committee; however, it is not necessary for the child to attend. The Plan of Care Committee must meet within eight days of the CPW receiving a referral on a child or family, and develop and sign an Agreement within 15 days.

If the Plan of Care Committee is unable to meet the time limitations, the matter is referred to the Child and Family Services Committee (if one exists in the community) to establish a second Plan of Care process. Where there is a Child and Family Services Committee in the community, the process may be extended for up to 30 days if there is difficulty in convening the committee, getting members to meet, or agreeing on a Plan of Care.

When there is no Child and Family Services Committee in a community, a Plan of Care Agreement must be in place within 15 days of the report of the protection concern to the CPW, or the matter is referred to court.

A Plan of Care Committee may not be established if the investigation shows no protection concerns; if the child was apprehended but returned within 72 hours with no further protection concerns; or if a person with lawful custody or the child (if 12 years of age or older) elects to take the matter to court.

The initial term of a Plan of Care Agreement must not be longer than 12 months and may be extended for not more than 24 months. The CPW must inform the person(s) with lawful custody and the child (if 12 years of age or older) of their right to bring a support person who is 19 years of age or older with them to Plan of Care Committee meetings. If the CPW or the person with lawful custody wants to terminate the Agreement, a 10-day written notice must be given to the other party.

According to Section 19 of the *CFSA*, a Plan of Care Agreement for a child may include provision for:

a) where and with whom the child will live;
b) support services to make the child's home safe for the child;
c) counselling;
d) access to the child by a parent where the child will not be living with the parent;
e) the child's education;
f) the child's social and recreational activities;
g) the responsibilities of any of the persons:
    i) listed in paragraphs 15(2)(a), (c), and (d),[1] or
    ii) who become members of a plan of care committee under subsection 15(3.1);[2]
h) a person named in the Agreement to have the rights and responsibilities of a parent in respect of the person of the child that are set out in the Agreement during the term of the Agreement;
i) support for the child by a parent under the Children's Law Act during the term of the Agreement; and
j) any other matter or thing that the Plan of Care Committee considers necessary and in the best interests of the child.

A Plan of Care Agreement does not limit the power of the Director, a Child Protection Worker, a peace officer, or an authorized person to take any action in respect of a child who is the subject of an Agreement.

Court-Ordered Protection

The first court appearance for a child protection concern must take place within 45 days from a) the date an election was made by a CPW, b) the date a report of protection concern was made to the CPW, or c) the date the child was apprehended, whichever is the latest.

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[1] At least one person who has lawful custody of the child, one member of the Child and Family Services Committee in the child's community, and one CSSW.

[2] Individuals who become members of a Plan of Care committee by virtue of being a member of the community who may be of assistance in developing and entering into a Plan of Care Agreement.

When a person with lawful custody (usually the parent) or the child (aged 12 years or older) decides to not participate in a Plan of Care process or to discontinue the process, they may choose to have the case be heard in court by making an "election" to go to court. An "election" is a written statement that is signed by either a person with lawful custody or the child (aged 12 years or older) requesting that a child protection matter be handled by the court. A CPW can also apply to take the case to court.

In the case where a child can safely remain in the home while subject to supervision, a CPW seeks a **Supervision Order**. This Order provides the CPW with legal authority to ensure that the child and family are cooperating with the court-ordered plan of care and further ensures the protection, health, and safety of the child while the child and the family are receiving services. A Supervision Order may not exceed one year, but can be renewed as long as the extension does not make the total continuous term of the Order exceed 24 months.

A **Temporary Custody Order** is sought when a child is found to be in need of protection by the Court, and is temporarily unable to reside with the parent(s). A Temporary Custody Order secures the protection, health and safety of the child by providing care while the child and family are receiving services. The CPW determines a suitable placement for the child while attempting to keep siblings together in the same home. The CPW endeavours to place the child with extended family and friends, to choose a foster home with the same cultural and religious backgrounds, to have the child continue in the same school, and to allow the child to maintain contact with close friends and social activities. Temporary Orders must be less than one year in duration and may be appealed by the CPW within 30 days, if the Supervisor is in agreement. Temporary Custody Orders may be extended as long as the total continuous term of the Order does not exceed 24 months.

A **Permanent Custody Order** provides the CPW with the legal authority to locate an appropriate permanent home and family for the child. The Director assumes the rights and responsibilities of a parent until the child attains the age of 16 years; until the child is adopted, thus providing the child with a legal parent; or a court discharges the Order.

Under Section 84(3) of the *CFSA*, children under 12 years of age are excluded from a room in which a hearing is being held except where, in the opinion of the court, the child's presence is necessary in order to be identified or to give evidence. Where a child is brought before a court, the hearing is held in premises other than the ordinary Supreme Court or Territorial Court unless it is impractical to do so, in which case the court holds the hearing in the court, but separate from the other business of the court.

Appeals

Any party to a hearing under the *CFSA* may, within 30 days after the date of an order made under the Act, appeal an order made by a justice of the peace or by the Territorial Court to the Supreme Court; or where the order was made by the Supreme Court, to the Court of Appeal. On hearing an appeal, the court may affirm, reverse or modify the order, and make any other order that the court considers necessary, including a declaration that a child needs protection.

Extended Care

Section 48(2) of the *CFSA* provides for the continuation of a Permanent Custody Order for a child who is under this Order at the time he or she turns 16 years of age. The child, the Director or an interested person can apply to have a Permanent Custody Order extended to age 19, if it is in the child's best interest.

Support Services

Support services for families where child protection or prevention issues exist are provided by community-based organizations or directly by CPWs. The types of services and delivery methods within each community are determined by assessing the needs of the community. The NWT Community Wellness Initiative was used as the overarching framework to assessing needs and to supporting communities' inherent ability to solve their own problems and to stay healthy. The Initiative focuses on four interdependent elements that provide a focus for change and the development of services:

- interagency cooperation;
- prevention, healing and treatment;
- education and training; and
- community empowerment.

Placement Resources

Foster Care

The Foster Care program in the Northwest Territories offers a substitute family environment for children who come into the care of the Director in one of five ways: a Voluntary Care Agreement, a Plan of Care, Apprehension, a Temporary or Permanent Custody Order, or surrendered for the purpose of adoption. The objective of every foster care placement is to provide children with an experience of positive family life while maintaining birth family involvement and cultural identity.

CPWs guide prospective foster parents through an established approval process and Child Protection Supervisors approve foster homes on behalf of the Director. All regular foster homes must meet a minimum of departmental standards for providing out-of-family care for a child. The approval process includes medical examinations, a criminal record check, providing the CPW with three references, and a home study which must be completed within 60 days of the date of the application. Once the home is approved, the foster parents sign a foster home agreement, which is an annually evaluated contract between the foster home and the Director. Foster parents also sign an oath of confidentiality as part of the contract.

Foster families require knowledge and support to cope with the multitude of needs that many of the children who are using their services bring to the situation. Specialized training and support services enhance the skills that the family brings into fostering. Training and support ensures that the foster family may be protected and more capable of meeting the needs of the foster child. The minimum training curriculum consists of information about the foster parent program's operation, communicable diseases, HIV and AIDS, and reducing risks and abuse in fostering. These sessions are offered within the first 12 months of the foster home being approved.

The majority of foster homes in the Northwest Territories are regular and special need homes that provide varying degrees of service. Recognizing the importance of cultural and personal identity to children and youth, the *CFSA* mandates Child Protection Workers to secure provisional/extended family foster homes as the primary placement resource.

Regular Foster Homes

Foster homes are approved to deliver services for children in the Director's care. In cases of sibling groups, homes may be approved to provide care to additional children and youth. All regular approved homes are reviewed on an annual basis.

Provisional/Extended Family Foster Homes

The home of a relative or other appropriate individual who has a positive relationship with the child may be approved to provide services to a specific child or children. A provisional home is subject to a shorter approval process and is closed when the child for whom it was opened leaves. CPWs maintain the same level of supervision, training, and case management for provisional and/or extended family foster homes as for regular foster homes. All Provisional/Extended Family foster homes are reviewed on an annual basis.

Emergency Foster Homes

Emergency foster homes deliver services in some communities. They must be available 24 hours a day to provide care to children. Emergency homes are required to successfully complete the approval process prior to the placement of any children.

Yellowknife Foster Family Association

The Yellowknife Foster Family Association was founded in 1977 to allow foster parents to share problems and frustrations as well as successes, and to present a more effective and unified voice when communicating with other organizations. The Association is funded through the Yellowknife Health and Social Services Board and makes numerous supports available to foster families in Yellowknife. It also serves as a source of new information on best practice foster care methods and trends. The Association, with funding from the Department, also operates a toll-free telephone support line and circulates a quarterly newsletter to all foster homes in the NWT.

Investigation of Allegations Against Foster Homes

Where it appears that the management or operation of a foster home is not serving the best interests of the children in its care, the Minister may direct an investigation and may appoint one or more persons to investigate and report on the management and operation of the home. This investigation may be relative to issues that have occurred before the coming into force of the *CFSA*.

The Child Protection Worker investigates all allegations of abuse and neglect in foster homes using the standard investigation procedures and notifies the Director. If abuse or neglect is suspected, the children are removed and the foster home is temporarily closed until the investigationis completed.

Group Care

The Health and Social Services Boards of each region negotiate contracts with group home operators, and manage the group homes. Requests for proposals are issued to the public to provide group care that meets the needs of children while maintaining compliance with established departmental standards for group home operations.

Northern Treatment Centres operate to meet the treatment needs of children in the NWT. A local CPW provides supervision for the children in the care of the centre, provides case management for each resident in conjunction with the facility, and maintains regular contact with each resident at the centre. Each treatment facility has a designated CPW, who retains on file contact notes, current case plans for each child and documentation of the services provided as per the case plan.

Adoptions

Adoption occurs when birth parents transfer all parental rights to adoptive parents. Guardianship is transferred through adoption; when finalization occurs, the child becomes the legal child of the adoptive family and the child's birth and surname may be changed. There are three types of adoptions in the Northwest Territories: custom adoption, private adoption, and departmental adoption.

Custom Adoption

Custom adoption is a long-standing and accepted practice of child placement in the Aboriginal culture. One or both birth parents and the adopting parents must be of Inuit, Dene, or Métis descent and must be a resident of (or have some legitimate connection to) the Northwest Territories. Custom adoption is an arrangement for care of children between the birth parent(s) and the adoptive parent(s) who are usually relatives or members of the same community. Adoption is deemed to have taken place at the time of placement.

Since 1995, under the *Aboriginal Custom Adoption Recognition Act*, custom adoptions have been processed by Adoption Commissioners in the various northern communities. Adoption certificates are completed by Commissioners and forwarded to the Supreme Court of the NWT where the Supreme Court Clerk certifies them.

Private Adoption

Private adoption matters are regulated by the *Adoption Act* to protect the interests of all parties, and to ensure the protection and well-being of the child. A private adoption occurs where the child to be adopted is not in the care of the Director and the adopting parents are known to the birth parent. It can be arranged by birth parent(s) and adopting parent(s) themselves as long as the requirements of the *Adoption Act* and the regulations have been met. A court hearing finalizes the adoption.

Birth parents cannot place a child in an adopting parent's home unless a preplacement report (homestudy) has been approved by the Director of Adoptions, and the birth parents have been informed of their rights regarding consent and revocation of consent and have been made aware of the Adoption Registry.

Departmental Adoption

Departmental adoption placements follow all legislative procedures, regulations, standards and policies pertaining to the *Adoption Act* in order to protect the interests of the parties involved and to ensure the best interests of the child. Departmental adoptions occur when a parent delivers a child to a CPW for the purpose of consensual adoption or where a child has been apprehended and eventually comes into the permanent care and custody of the Director. When parent(s) consent to an adoption, the CPW must wait 10 days after the day the child is surrendered to get the signed consent of the parent(s).

Children are not usually placed in adoptive placements until the Court process bringing the child into permanent custody of the Director and the 30-day court appeal process have been completed and they are legally free for adoption.

In the event that a child is placed in a prospective adoptive resource and the time limits of appeal or revoking process have not expired, the adopting parents acknowledge in writing the risk that they are taking and that they understand that there is a possibility of the parent revoking consent or appealing the court procedure. This acknowledgement is written as an Affidavit and sworn before a Commissioner of Oaths or a Notary Public. A **Permanent Adoption Order** is signed six months after the child has been placed in the home.

International Adoption

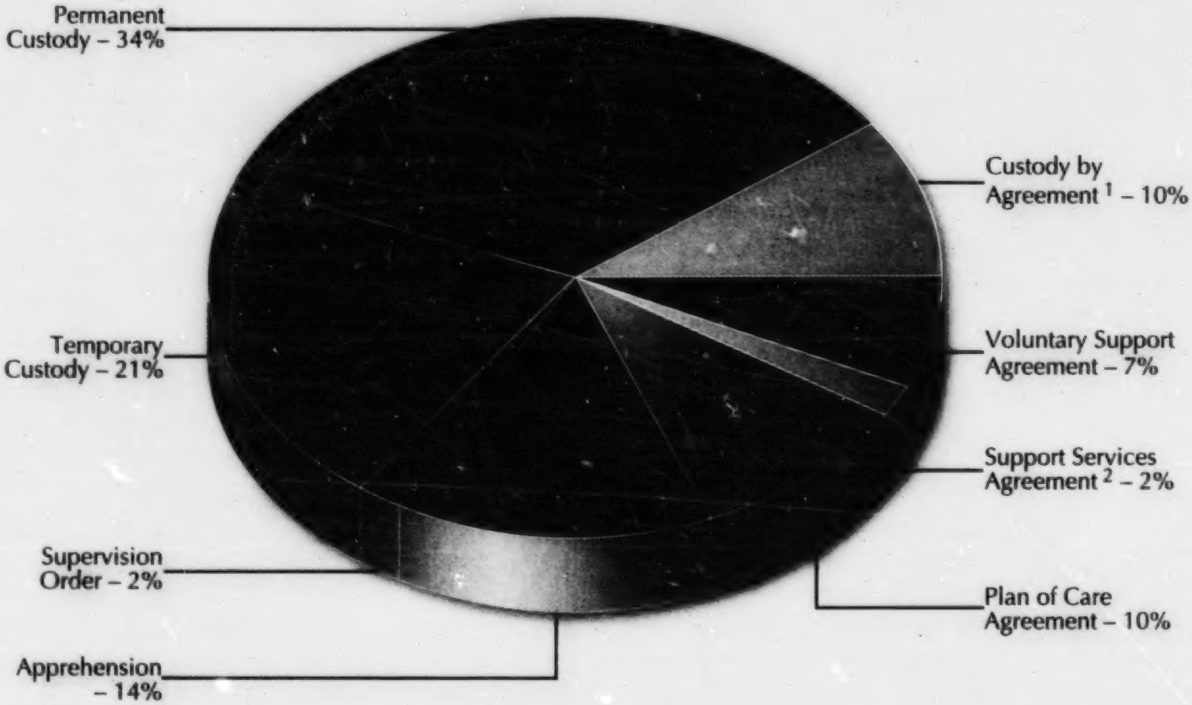
The Northwest Territories government has not yet enacted legislation to implement the Hague Convention on Intercountry Adoption. A separate implementation act is pending.

Statistics

Northwest Territories data should not be compared with data for other jurisdictions due to the limitations outlined in the Introduction. These statistics include information for Nunavut.

Figure 12.1

Children in Care by Legal Status as at March 31, 1999



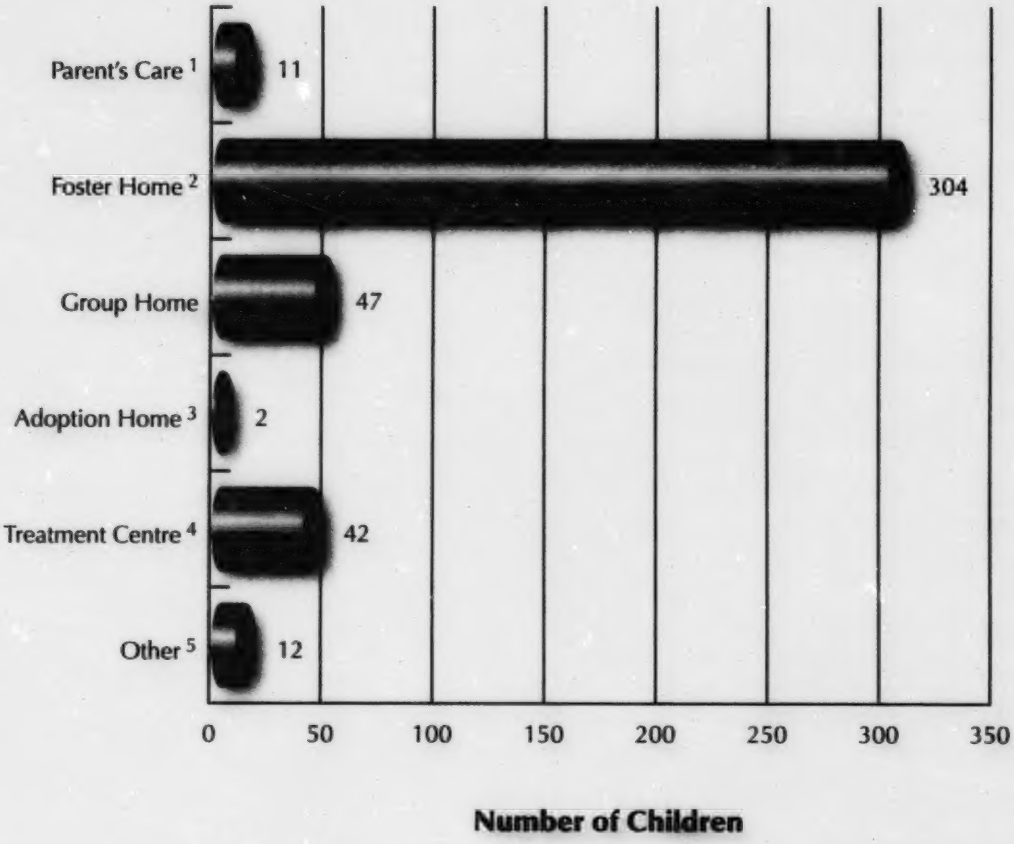
[1] Custody by Agreement (CBA) under the previous Child Welfare Program is now defined as a Voluntary Support Agreement (VSA) under the *CFSA*. These statistics are reported separately in the above chart. CBAs governed children up to 18 years of age. VSAs now govern children up to age 16.

[2] Support Service Agreements (SSA) under the *CFSA* replaced Voluntary Care Agreements (VCA) under the previous Child Welfare Program. The statistics under the SSA heading include VCA statistics from the first seven months of the fiscal year. While the VCA under the previous child welfare program governed youths from 16 up to 18 years of age, the VSA now governs youths from 16 up to 19 years of age.

Children in care: 418

Figure 12.2

Children in Care by Placement Type as at March 31, 1999



1 Parents' Care usually refers to children placed in their parents' care under a Supervision Order.
2 Foster Home includes all NWT foster home types and children placed in southern foster homes.
3 Adoption Home means children in permanent care placed on adoption probation.
4 Includes all children placed in northern or southern treatment centres.
5 Other includes children in hospitals, young offender facilities or in a room and board setting.

Children in care: 418

Resource Material

Legislative Material

Child and Family Services Act. S.N.W.T. 1997, c.13. In force October 30, 1998; SI-017-98. As amended by S.N.W.T. 1998, c.17. In force October 30, 1998.

Aboriginal Custom Adoption Recognition Act. S.N.W.T. 1994, c.26. In force September 30, 1995; SI-009-95.

Adoption Act. S.N.W.T. 1998, C.9. In force November 01, 1998. SI-016-98.

Reports

Health and Social Services. (1999). *The Northwest Territories Health Status Report.*

The Financial Management Board Secretariat Department of the Executive. (January, 1998). *Main Estimates 1998-1999* (Section 6: Health and Social Services).

Other

Northwest Territories Department of Health and Social Services. (1998). *Child and Family Services Standards and Procedures Manual.*

Northwest Territories Department of Health and Social Services. (1998). *Child and Family Services Adoption Manual.*

Northwest Territories Health and Social Services. Web site: **http://www.hlthss.gov.nt.ca/**

Pamphlets

Health and Social Services Board of Northwest Territories. *The New Child and Family Services Act Pamphlet.*

Northwest Territories Department of Health and Social Services. *Are You Thinking of Adoption for Your Child?*

13

NUNAVUT

Administration and Service Delivery

Administration

The Social Services Unit of the Department of Health and Social Services oversees the administration and service delivery of child and family services. Nunavut has adopted the *Child and Family Services Act (CFSA)*, the *Aboriginal Custom Adoption Recognition Act*, the *Adoption Act*, the *Intercountry Adoption Act*, and the *Children's Law Act* of the Northwest Territories as amended and duplicated by Nunavut.

The paramount objective of the *CFSA* is to promote the best interests, protection and well-being of the child, recognizing that differing cultural values and practices must be respected. The Director of Child and Family Services assumes the responsibility and powers under the *CFSA* for children and families in Nunavut and delegates these to Community Social Services Workers. The Act specifies the types of interventions that a Community Social Services Worker (CSSW) is authorized to provide, and defines these workers' authority to respond to and prevent the emergence of protection concerns.

The *CFSA* is the legislative authority that directs the Minister of Health and Social Services to appoint an Executive Director of Child and Family Services in each of three regional offices. The Executive Director oversees the Director of Clinical Practice – Social Work and the Director of Health and Social Programs. The Director of Clinical Practice – Social Work provides clinical "case work" direction to the Supervisor of Social Programs. The Director of Health and Social Programs receives reports from the Supervisor of Social Programs for administrative purposes, such as leave, budgets, etc.

The Nunavut Health and Social Services Headquarters of the Department of Health and Social Services is located in Iqaluit. It oversees the delivery of a broad range of family support and child protection programs and services throughout three geographical areas. The Department takes a community-based approach to service delivery wherein regions and communities plan, manage, and deliver the services to best suit their needs.

Service Delivery Network

Services are delivered through three regional offices: Iqaluit in the Baffin Region, Rankin Inlet in the Keewatin Region, and Cambridge Bay in the Kitikmeot Region. The lines of communications between headquarters and regions are maintained through an agreed-upon protocol.

The Director of Child and Family Services delegates authority to the Supervisor of Social Programs in each regional office to appoint qualified persons as CSSWs to carry out the responsibilities outlined in the *CFSA*. All delegated duties and responsibilities under the *CFSA* must be in writing and must identify the specific communities involved.

After Hours

Each region has various schedules for after-hours services and shares the responsibility to ensure that all the communities receive complete coverage.

Human Resources

The entry level requirement for employment as a CSSW is a Social Work Certificate with two years' relevant experience. Before a CSSW is appointed, the worker must attend and successfully complete statutory training. Depending on the performance and the outcome of the final examination and upon recommendation of the Regional Supervisor of Social Programs, the worker will then receive a full or a probationary appointment. Further in-service training includes a child abuse investigative training session that is held jointly with the RCMP. Each region is responsible for the orientation of its employees.

Children's Advocate

Nunavut does not have a children's advocate.

Aboriginal Peoples

Legislation

The *CFSA* contains provisions to establish Community Agreements that allow the Minister of Health and Social Services to delegate authority under the Act to persons and groups external to the Department of Health and Social Services. The Community Agreements allow for a not-for-profit corporate body of an Aboriginal organization to enter agreements with the Minister allowing for the delegation of powers under the *CFSA* to the corporate body. Sections 56 to 59 of the Act set out the framework and process by which a Community Agreement is achieved, the attendant powers, and the responsibilities. A Community Agreement must:

- delegate the authority and responsibility to the corporate body for any matter set out in the *CFSA;*
- specify the community(ies) in which the corporate body may act;
- specify the Aboriginal children for whom the corporate body may act;
- establish a Child and Family Services Committee and define its role; and
- establish terms of office and procedures by which the Committee exercises it powers and duties under the *CFSA*.

The Child and Family Services Committee (CFS Committee) is a committee of the Board of Directors of the Aboriginal organization's corporate body, with its members appointed by the Board in accordance with the terms set out in the Community Agreement. The Director of Child and Family Services may authorize the delegation of some or all powers and duties under the *CFSA* to the chairperson of the CFS Committee to exercise within the community(ies) defined in the Community Agreement. The CFS Committee chairperson remains subject to the direction of the Director in exercising powers and duties under the Act.

A Community Agreement also allows a corporate body to establish standards for its community that are used in determining the level of care required to meet a child's needs, and whether or not a child needs protection. These standards must be communicated to all members of the community.

No Community Agreements have been signed in Nunavut as of September 2000.

The *CFSA* (Section 91) legislates that applicable Aboriginal organizations, as identified in the regulations, must be informed whenever a member or someone who is eligible to become a member of the organization is a party to a child protection case proceeding to court. This creates an opportunity for the organization to provide input, particularly on the customs and traditions unique to the Aboriginal organization that are important to consider in the development of a case plan for the child or family. There are three Inuit organizations in Nunavut: the Kitikmeot Inuit Association, the Kivalliq Inuit Association, and the Qikiqtani Inuit Association. These organizations must be informed when an Aboriginal child is taken into care.

Definitions

Child

Section 1 of the *CFSA* defines a **child** as: "a person who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years, and a person in respect of whom an order has been made under Section 47(3) (temporary custody) or 48(2) (permanent custody)."

According to Section 1 of the *Adoption Act*, a **"child"** means a person who has not attained the age of majority (19 years of age).

Child in Need of Protection

Section 7(3) of the *CFSA* states that: "**a child is in need of protection** where:

a) the child has suffered physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;

b) there is a substantial risk that the child will suffer physical harm inflicted by the child's parent or caused by the parent's unwillingness or inability to care and provide for or supervise and protect the child adequately;

c) the child has been sexually molested or sexually exploited by the child's parent or by another person where the child's parent knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the child;

d) there is a substantial risk that the child will be sexually molested or sexually exploited by the child's parent or by another person where the child's parent knows or should know of the possibility of sexual molestation or sexual exploitation and is unwilling or unable to protect the child;

e) the child has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others, or any other severe behaviour that is consistent with the child having suffered emotional harm, and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm;

f) there is a substantial risk that the child will suffer emotional harm of the kind described in paragraph (e) and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to prevent the harm;

g) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the condition;

h) the child's health or emotional or mental well being has been harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child;

i) there is a substantial risk that the child's health or emotional or mental well being will be harmed by the child's use of alcohol, drugs, solvents or similar substances and the child's parent is unavailable, unable or unwilling to properly care for the child;

j) the child requires medical treatment to cure, prevent or alleviate serious physical harm or serious suffering and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the treatment;

k) the child suffers from malnutrition of a degree that, if not immediately remedied, could seriously impair the child's growth or development or result in permanent injury or death;

l) the child has been abandoned by the child's parent without the child's parent having made adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;

m) the child's parents have died without making adequate provision for the child's care or custody and the child's extended family has not made adequate provision for the child's care or custody;

n) the child's parent is unavailable or unable or unwilling to properly care for the child and the child's extended family has not made adequate provision for the child's care; or

o) the child is less than 12 years of age and has killed or seriously injured another person or has persisted in injuring others or causing damage to the property of others, and services, treatment or healing processes are necessary to prevent recurrence and the child's parent does not provide, or refuses or is unavailable or unable to consent to the provision of, the services, treatment or healing processes."

Child Abuse and Neglect

The *CFSA* (Section 1) defines **"abuse"** as "neglect or emotional, psychological, physical or sexual abuse".

Legislated Rights of Children

As legislated in the *CFSA*, children 12 years or older must be given the opportunity to participate in all decisions that will affect them.

Child Abuse/Neglect Protocols

A collaborative child abuse protocol with the RCMP, Justice, and Education ministries and Nunavut Health and Social Services is in its final stages of development and will be implemented in fall 2000. The investigative protocol is at the signing stage.

Mandatory Reporting of a Child in Need of Protection

Who Must Report

Section 8(1) of the *CFSA* stipulates that anyone who has information or believes that a child is in need of protection must report this information to a CSSW without delay. If a CSSW is not available, the report should be made to a RCMP officer or another authorized person. Any privileged information that may exist between a solicitor and the solicitor's client is exempted from reporting obligations.

Penalties for Not Reporting

Anyone who fails to report is guilty of an offence and liable upon summary conviction to a fine not exceeding $5,000, to imprisonment for a term not exceeding six months or to both.

Investigation of Allegation of Abuse or Neglect

Who Investigates

A CSSW must assess and, if needed, investigate all reports or referrals of a child in need of protection within 24 hours of learning of the concern. CSSWs contact the RCMP when there are reports involving sexual and/or physical abuse, or during an investigation if a suspicion of sexual or physical abuse arises.

When a referral or a report is received verbally or in writing, the CSSW immediately completes a screening report and a criminal record check to ascertain if there have been prior reports or allegations with respect to the child or family. Using the Criteria to Assist guidelines, and after consulting a supervisor, the CSSW determines if an investigation is warranted.

When a child is removed from the home, the CSSW then has 72 hours to determine if the child is in need of protection. The investigation may be extended for up to 30 days after consulting with a supervisor, if the CSSW is undecided about the child's need for protection. The investigation cannot be continued beyond this time if there is no substantial evidence to indicate that the child's safety or development may be in danger. An investigation ends with the CSSW closing the file, providing voluntary services, or finding that the child is in need of protection and initiating court proceedings.

Warrants

If there is suspicion that a child's health or safety is in question, under Section 33 of the *CFSA*, a CSSW, any person authorized by the Director, or the RCMP may enter a residence without a warrant at any time, using force if necessary. The person who has lawful custody of the child, and the child, if 12 years of age or older, are informed that the child is being removed from the home for the child's own protection. Community standards and cultural factors are acknowledged and respected when determining whether to remove a child from a home.

Mandatory Medical Examinations

Under Sections 31 and 32 of the *CFSA*, if there is an immediate need for medical attention, as in the case of suspected physical/sexual abuse, the CSSW brings the child to a nurse or a doctor.

Risk Assessment/Risk Management

Upon completion of, or during the initial investigative interview, the worker completes a Safety Assessment form to help determine if the child is at immediate risk of harm. If the child is not at immediate risk, the CSSW decides if physical, sexual, emotional abuse or neglect has occurred, or if there is a great possibility that abuse will occur if services are not provided. According to the Yellowknife Apprehension Guidelines, if the child is at immediate risk, the supervisor must be notified and the child is removed from the home.

Investigation of Third Party Abuse

At this time, there is no statutory requirement to investigate third party abuse.

Investigation of Child Deaths

Nunavut uses a system of lay coroners to investigate any child death reported to the Chief Coroner. The *Chief Coroner's Act* defines reportable cases as sudden and unexpected deaths; deaths by fatal disease are not reportable. The police and hospitals (or nursing stations) notify the Chief Coroner who then reviews the death with a multidisciplinary Childhood Fatality Review Committee. The majority of children under age 16 whose deaths are reviewed are autopsied. In concluding a review of a death, the Coroner issues a Coroner's Report. If a more in-depth report is needed, a Judgement of Inquiry takes place and the resulting report and recommendations are made public. The Chief Coroner in Iqaluit is linked with the Office of the Forensic Pathologist in Edmonton, Alberta for consultative purposes.

Child Abuse Register

Nunavut does not have a child abuse register.

Agreements and Orders

Intervention that provides safety, protection from harm and risk reduction for children is achieved through either a voluntary agreement or a Plan of Care involving the Director, the parents or caregivers (and the child, in some cases), or by an order by the court. There are two options for resolving issues once it is believed that a child is "in need of protection". Families may voluntarily participate in a Plan of Care Committee process or, alternatively, settle the matter in court. Families needing preventive services where there is no current child protection concern may enter into a voluntary agreement with the Director.

Voluntary Agreements

Voluntary Support Agreements (VSA) ensure that families needing preventive services have the least disruptive services available to them for maintaining their family unit without relinquishing their legal rights and responsibilities. A VSA also allows a child 12 years and older to be involved in its development and implementation.
A VSA can also provide for the short-term care and custody by the Director of a child surrendered by parents for adoption until the parental consent for adoption is signed by the parent(s). A VSA cannot be entered into for a period exceeding six months, but may be renewed every six months until the child reaches 19 years of age, if it is in the best interests of the child. Parents who enter into a VSA retain their responsibility to support their children at least to the age of 19. The parental contribution, financial or otherwise, is determined prior to entering into a VSA.

The *CFSA* allows for youth 16 to 19 years to receive support services when requested and needed. These youth enter into a **Voluntary Support Services Agreement** (VSS) for a period not exceeding six months. The youth must be in agreement with the plan, and it can be renewed until the youth reaches the age of majority.

Plan of Care Agreements

A **Plan of Care Agreement** is a more expedient alternative to court procedures and comes into effect when the Plan of Care Committee agrees on a Plan of Care for the child and/or family. A Plan of Care Committee must include person(s) with lawful custody of the child, the child (if 12 years of age or older), the CSSW, and a member of the Child and Family Services Committee (if one exists in the community). A Plan of Care Committee must exclude any community member who has been a caregiver identified in a current child protection report, investigation, Plan of Care Agreement or court order. All members of a Plan of Care Committee must follow the *CFSA* regulations and guidelines in the operation of the committee and in the development of a Plan of Care Agreement. The Plan of Care Committee meets for the first time within eight days of having received a referral for a child or family. Written notice of the meeting is sent to all Committee members. The CSSW must inform the person(s) with lawful custody and the child (if 12 years of age or older) of their right to bring a support person who is 19 years of age or older with them to the Plan of Care Committee meetings.

When there is no Child and Family Services Committee (C&FS Committee) in a community, a Plan of Care Agreement must be in place within 15 days of the report of the protection concern to the CSSW. A Plan of Care Committee may not be established:

- if an investigation shows that there were no protection concerns;
- if the child was apprehended but is returned within 72 hours and there are no further protection concerns; or
- if a person with lawful custody, or the child (if 12 years of age or older), elects to take the matter to court.

Where there is a C&FS Committee in the community, the process may be extended for up to 30 days if there is difficulty in convening the committee meeting or agreeing on a Plan of Care.

The initial term of a Plan of Care Agreement must not be longer than 12 months and may be extended for not more than a total of 24 months. If the CSSW or the person with lawful custody wants to terminate the Agreement, a 10-day written notice must be given to the other party.

According to Section 19 of the CFSA, a Plan of Care Agreement for a child may include provision for:

a) where and with whom the child will live;

b) support services to make the child's home safe for the child;

c) counselling;

d) access to the child by a parent where the child will not be living with the parent;

e) the child's education;

f) the child's social and recreational activities;

g) the responsibilities of:

   - at least one person who has lawful custody of the child, one member of the Child and Family Services Committee in the child's community, and one CSSW, or
   - individuals who become members of a Plan of Care Committee by virtue of being a member of the child's extended family or a member of the community who may be of assistance in developing and entering into a Plan of Care Agreement;

h) a person named in the Agreement to have the rights and responsibilities of a parent in respect of the person of the child that are set out in the Agreement during the term of the Agreement;

i) support for the child by a parent under the *Children's Law Act* during the term of the Agreement; and

j) any other matter or thing that the Plan of Care Committee considers necessary and in the best interests of the child.

The Director may be the person named in a Plan of Care Agreement to have the rights and responsibilities of a parent, until the Agreement is modified to provide otherwise, or is terminated. A Plan of Care Agreement does not limit the power of the Director, a CSSW, a peace officer or an authorized person to take any action in respect of a child who is subject of a Plan of Care Agreement.

Court-Ordered Protection

In Nunavut, the Plan of Care process usually occurs before court-ordered protection. When a person with lawful custody (usually the parent) or the child (aged 12 years or older) decides that they do not want to participate or continue to participate in a Plan of Care process, they may choose to have the case heard in court by making an "election" to go to court. An "election" is a written statement that is signed by either a person with lawful custody, or the child (aged 12 years or older) to request that a child protection matter be handled by the court. A CSSW may also file an application to have the case heard in court. The first court appearance must take place within 45 days from the time when the Plan of Care process was dissolved, when a report of protection concern was made to the CSSW, or when the child was apprehended, whichever was latest.

In the case where a child remains in the home while subject to supervision, a CSSW applies to the court for a **Supervision Order**. This Order provides the CSSW with legal authority to ensure that the child and family are cooperating with the court-ordered Plan of Care and further ensures the protection, health and safety of the child while the child and/or family is receiving services. A Supervision Order may not exceed one year.

A **Temporary Custody Order** is sought when a child is found to be in need of protection by the Court and is temporarily unable to reside with the parent(s). A Temporary Custody Order secures the protection, health and safety of the child by providing out-of-home care while the child and family are receiving services. The CSSW determines a suitable placement for the child while attempting to keep siblings together in the same home. The CSSW endeavors to place the child with extended family or friends, to choose a foster home with the same cultural and religious backgrounds, to have the child continue in the same school, and to allow the child to maintain contact with close friends and social activities. Temporary orders must be less than one year in duration and may be appealed within 30 days. When an extended Temporary Custody Order has been in place for up to 24 months, the CSSW then makes an application for a Permanent Custody Order.

When a child can no longer return to live with a parent or guardian, a **Permanent Custody Order** provides the CSSW with the legal authority to locate an appropriate permanent home and family for the child. The Director assumes the rights and responsibilities of a parent until the child attains the age of 16 years or until the child is adopted, thus providing the child with a legal parent.

Under Section 84.3 of the *CFSA*, children under 12 years of age are excluded from a room in which a protection hearing is being held. Depending on the opinion of the court, a child may be permitted in the courtroom either to be identified or to give evidence. Where a child is brought before a court, the hearing is held in premises other than the ordinary Supreme Court or Territorial Court. If other premises are impractical, the court holds the hearing in an area separate from the usual business of the court.

Appeals

Any party to a hearing under the *CFSA* may, within 30 days after the date of an order made under the Act, appeal an order made by a justice of the peace or by the Territorial Court to the Supreme Court; or where the order was made by the Supreme Court, to the Court of Appeal. On hearing an appeal, the court may affirm, reverse or modify the order, and make any other order that the court considers necessary, including a declaration that a child needs protection.

Extended Care

Nunavut does not offer any provisions for extended care beyond the age of 16 years.

Support Services

Support services available to families in need of preventive or protective services are resources that strengthen family functioning and help to reduce the risk of child abuse or neglect. Where possible, the CSSW and the family choose the combination of formal services such as daycare, counselling, mental health counselling, etc. and informal supports and services such as the extended family, friends, community organizations, etc. that specifically target the needs of the family.

Placement Resources

Foster Care

In Nunavut, foster care is the primary placement option for children who are living away from home. Nunavut has two types of foster care; provisional foster homes (child-specific homes) and regular foster homes. Some regular foster homes may develop additional skills to work with challenging children and may be assigned such children.

Approvals of provisional homes and regular foster homes include a criminal record check, reviews of departmental records, medical examinations, and an in-depth home study. The home study collects information on the applicants' motivation to foster a child, education, employment history, income, residence, skills, their health, marital relationship and relationships with their own children, attitudes towards raising children, as well as religion, education, and community standards. The home study also explores attitudes toward contact with a foster child's family of origin, and skills and ability to deal with pressures from the family of origin, should these occur. References are required from a minimum of two non-related persons on the subject of the family's ability to parent. The application to foster, accompanied by the home study and supporting documentation, is the basis for approval by the Director of Social Programs. The foster home agreement is signed after the approval process.

As of September 2000 no universal standardized training for foster parents was available in Nunavut.

Regular Foster Care

Children under Voluntary Agreements, in need of protection or awaiting adoption may be placed in a regular foster home. Yearly reviews of the homes are conducted by the CSSWs and include a recommendation regarding continued use of the home. The Director of Social Programs is responsible for approving, approving with conditions or revoking the approval of a foster home.

Provisional Foster Homes

When an appropriate extended family member's or a neighbour's home is available and can ensure that the best interests of the child are taken into account, it is considered as a provisional foster home and is the first choice for placement. CSSWs maintain the same level of supervision and case management for provisional foster homes as for regular foster homes. Yearly reviews of provisional homes are required and the home is closed when the child leaves.

Investigation of Allegations Against Foster Homes

Where it appears that the management or operation of a foster home is not serving the best interests of the children in its care, the Minister may direct an investigation and may appoint one or more persons to investigate and report on the management and operation of the home. This investigation may be relative to issues that occurred before the coming into force of the *CFSA* in 1997.

The CSSW responds to all allegations of abuse and neglect in foster homes by notifying the Director and using standard investigation procedures. If abuse or neglect is suspected, the children are removed and the foster home is temporarily closed until the investigation is completed.

Adoptions

Adoption occurs when birth parents transfer all parental rights to adoptive parents through a **Permanent Adoption Order**. Guardianship is transferred through adoption and, when finalization occurs, the child becomes the legal child of the adoptive family and the child's birth and surname may be changed. There are three types of adoptions in Nunavut: custom, private, and departmental.

Custom Adoption

Custom adoption is a long-standing and accepted practice of child placement in the Aboriginal culture. Custom adoption is an arrangement for care of children between the birth parent(s) and the adoptive parent(s) who are usually relatives or members of the same community. Adoption is deemed to have taken place at the time of placement.

Since 1995, under the *Aboriginal Custom Adoption Recognition Act*, custom adoptions have been processed by Adoption Commissioners in the various northern communities. One or both birth parents and the adopting parents must be of Inuit, Dene, or Métis descent and must be a resident of Nunavut or have some legitimate connection to the territory. Adoption certificates are completed by Commissioners and forwarded to the Supreme Court of Nunavut where they are certified by the Supreme Court Clerk.

Private Adoption

Private adoption matters are regulated by the *Adoption Act* to protect the interests of all parties and to ensure the protection and well-being of the child. A private adoption occurs where the child to be adopted is not in the care of the Director. It can be arranged by birth parent(s) and adopting parent(s) themselves as long as the requirements of the *Adoption Act* and the regulations have been met.

Departmental Adoption

Departmental adoption placements follow all legislative procedures, regulations, standards and policies pertaining to the *Adoption Act* in order to protect the interests of the parties involved and to ensure the best interests of the child. Departmental adoptions occur when a parent delivers a child to a CSSW for the purpose of consensual adoption, or where a child has been apprehended and eventually comes into the permanent care and custody of the Director. When birth parent(s) consent to an adoption, the CSSW must wait 10 days after the day the child is surrendered to secure the signed parental consent. When the parent(s) has signed a Voluntary Support Agreement form, the child is placed in an approved adoptive home and the placement is managed and supervised by appointed adoption workers.

When a child is placed with a family prior to a court order, a pre-adoption acknowledgement is made with the approved adoptive parents, taking the best interests of the child and the possible risks into consideration. Prospective adoptive parents sign an acknowledgement that they understand that the child can be removed during a 30 day appeal period and that they are willing to accept a child under these conditions pending a **Permanent Adoption Order**.

International Adoption

Nunavut has not yet enacted legislation to implement the Hague Convention on Intercountry Adoption.

Statistics

Nunavut data is included in the Statistics section for the Northwest Territories.

Resource Material

Legislative Material

Child and Family Services Act. S.N.W.T. 1997, c.13. In force October 30, 1998; SI-017-98. As amended by S.N.W.T. 1998, c.17. In force October 30, 1998.

Children's Law Act. S.N.W.T. 1997, c.14, as amended by 1998; c.17. In force November 01, 1998.

Aboriginal Custom Adoption Recognition Act. S.N.W.T. 1994, c.26. In force September 30, 1995; SI-009-95.

Adoption Act. S.N.W.T. 1998, c.9. In force November 01, 1998. SI-016-98.

Reports

Health and Social Services. (1999). *The Northwest Territories Health Status Report.*

The Financial Management Board Secretariat Department of the Executive. (January, 1998). *Main Estimates 1998-1999. Section 6: Health and Social Services.*

Other

Northwest Territories Department of Health and Social Services. (1998). *Child and Family Services Standards and Procedures Manual.*

Northwest Territories Department of Health and Social Services. (1998). *Child and Family Services Adoption Manual.*

Nunavut Government Web site: **http://www.gov.nu.ca**

Pamphlets

Health and Social Services Board of Northwest Territories. *The New Child and Family Services Act Pamphlet.*

Northwest Territories Department of Health and Social Services. *Are You Thinking of Adoption for Your Child?*

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